

ESTTA Tracking number: **ESTTA467653**

Filing date: **04/18/2012**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91199752
Party	Plaintiff Evonik Degussa GmbH
Correspondence Address	SCOTT D WOLDOW SMITH GAMBRELL & RUSSELL LLP 1130 CONNECTICUT AVENUE NW, SUITE 1130 WASHINGTON, DC 20036 UNITED STATES sdwoldow@sgrlaw.com
Submission	Motion for Summary Judgment
Filer's Name	Scott D. Woldow
Filer's e-mail	sdwoldow@sgrlaw.com
Signature	/SW/
Date	04/18/2012
Attachments	SDW ACCUROUTE COVER SHEET.PDF ( 22 pages )(249550 bytes ) TRADEMARK 1.PDF ( 87 pages )(2047065 bytes ) TRADEMARK 2.PDF ( 11 pages )(179838 bytes ) TRADEMARK 3.PDF ( 18 pages )(400164 bytes ) TRADEMARK 4.PDF ( 23 pages )(421172 bytes )

**Woldow, Scott**

**From:** estta-server@uspto.gov  
**Sent:** Tuesday, April 17, 2012 3:10 PM  
**To:** Woldow, Scott  
**Subject:** ESTTA. Motion for Summary Judgment confirmation receipt ID: ESTTA467534

Opposition No.: 91199752

Tracking No: ESTTA467534

ELECTRONIC SYSTEM FOR TRADEMARK TRIALS AND APPEALS Filing Receipt

We have received your Opposition No.: 91199752 submitted through the Trademark Trial and Appeal Board's ESTTA electronic filing system. This is the only receipt which will be sent for this paper. If the Board later determines that your submission is inappropriate and should not have been accepted through ESTTA, you will receive notification and appropriate action will be taken.

Please note:

Unless your submission fails to meet the minimum legal requirements for filing, the Board will not cancel the filing or refund any fee paid.

If you have a technical question, comment or concern about your ESTTA submission, call 571-272-8500 during business hours or e-mail at [estta@uspto.gov](mailto:estta@uspto.gov).

The status of any Board proceeding may be checked using TTABVUE which is available at <http://ttabvue.uspto.gov>. Complete information on Board proceedings is not available through the TESS or TARR databases. Please allow a minimum of 2 business days for TTABVUE to be updated with information on your submission.

The Board will consider and take appropriate action on your filing in due course.

Printable version of your request is attached to this e-mail

-----  
ESTTA server at <http://estta.uspto.gov>

ESTTA Tracking number: ESTTA467534  
Filing date: 04/17/2012

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding: 91199752  
Party: Plaintiff  
Evonik Degussa GmbH

Correspondence Address: SCOTT D WOLDOW  
SMITH GAMBRELL & RUSSELL LLP  
1130 CONNECTICUT AVENUE NW, SUITE 1130  
WASHINGTON, DC 20036  
UNITED STATES  
[sdwoldow@sgrlaw.com](mailto:sdwoldow@sgrlaw.com) Phone:

Submission: Motion for Summary Judgment

Filer's Name: Scott D. Woldow

Filer's e-mail: sdwoldow@sgrlaw.com  
Signature: /SW/  
Date: 04/17/2012

Attachments: TRADEMARK 2.PDF ( 19 pages )



United States Patent and Trademark Office

[Home](#) | [Site Index](#) | [Search](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz alerts](#) | [News](#) | [Help](#)**Electronic System for Trademark Trials and Appeals****Receipt**

Your submission has been received by the USPTO.  
The content of your submission is listed below.  
You may print a copy of this receipt for your records.

ESTTA Tracking number: **ESTTA467534**Filing date: **04/17/2012**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

<b>Proceeding</b>	91199752
<b>Party</b>	Plaintiff Evonik Degussa GmbH
<b>Correspondence Address</b>	SCOTT D WOLDOW SMITH GAMBRELL & RUSSELL LLP 1130 CONNECTICUT AVENUE NW, SUITE 1130 WASHINGTON, DC 20036 UNITED STATES sdwoldow@sgrlaw.com
<b>Submission</b>	Motion for Summary Judgment
<b>Filer's Name</b>	Scott D. Woldow
<b>Filer's e-mail</b>	sdwoldow@sgrlaw.com
<b>Signature</b>	/SW/
<b>Date</b>	04/17/2012
<b>Attachments</b>	TRADEMARK 2.PDF ( 19 pages )(250113 bytes )

**[Return to ESTTA home page](#)** **[Start another ESTTA filing](#)**

| [HOME](#) | [INDEX](#) | [SEARCH](#) | [eBUSINESS](#) | [CONTACT US](#) | [PRIVACY STATEMENT](#)

In the Matter of Application Serial Nos. 85/096,047 and 79/083,600

V.

Afgritech Ltd.

**EVONIK DEGUSSA GMBH'S MOTION FOR SUMMARY JUDGMENT  
AND MEMORANDUM OF LAW IN SUPPORT**

Pursuant to the Trademark Trial and Appeal Board Manual of Procedure (“TBMP”) § 528, 37 C.F.R. § 2.127, and FED. R. CIV. P. 56, Evonik Degussa GmbH (“Evonik”) moves the Board for summary judgment in its Opposition No. 91199752 against Afgritech Ltd.’s (“Afgritech”) Application Serial No. 85/096,047 for the mark AMINOGREEN for animal feed supplement and livestock feed (the “AMINOGREEN Mark”). Afgritech filed its application for the AMINOGREEN Mark on July 29, 2010 as an intent-to-use application. Thus, pursuant to 15 U.S.C. § 1051(b), Afgritech must have had “a *bona fide* intention” to use the AMINOGREEN Mark to identify animal feed supplement and livestock feed in commerce when it filed its application; if it did not, the application is void *ab initio*, and Evonik’s opposition must be sustained. Afgritech did not have such intent. More specifically, the absence of *any* documentary evidence corroborating Afgritech’s supposed intent is sufficient to prove that Afgritech in fact lacked the requisite *bona fide* intent to use the AMINOGREEN Mark. Evonik’s Opposition No. 91199752 must be sustained – and Afgritech’s Application Serial No. 85/096,047 must be refused – on this ground alone.

## **STATEMENT OF UNDISPUTED MATERIAL FACTS**

Afgritech filed its first application for the AMINOGREEN Mark for animal feed supplement and livestock feed, Application Serial No. 78/917,849, on June 27, 2006.<sup>1</sup> Because Afgritech filed its Application Serial No. 78/917,849 as an intent-to-use application pursuant to 15 U.S.C. § 1051(b), it was required to represent to the United States Patent and Trademark Office (“PTO”) that it had “a *bona fide* intention to use . . . the mark in commerce on or in connection with the identified goods.” Afgritech did so, and the PTO issued a Notice of Allowance for that application on May 8, 2007. Pursuant to 15 U.S.C. § 1051(d), Afgritech was then required to file a verified statement that it had used the AMINOGREEN Mark in commerce before its application would mature into a registration. It never did so. Instead, Afgritech requested five extensions of time to file the statement of use. In each of those requests, Afgritech continued to represent to the PTO that it had a “*bona fide* intention” to use the AMINOGREEN Mark. Yet Afgritech never filed a statement of use for its Application Serial No. 78/917,849. Accordingly, on June 7, 2010, the PTO issued a Notice of Abandonment. On July 29, 2010 – a mere month after its first application was abandoned – Afgritech filed a second intent-to-use application for the AMINOGREEN Mark: Application Serial No. 85/096,047. In so doing, Afgritech again represented to the PTO that it had a “*bona fide* intention” to use the mark. Yet before the PTO could issue another Notice of Allowance (and thus restart the clock for Afgritech to file its statement of use), Evonik filed the instant Opposition No. 91199752 on the grounds that Afgritech’s intended use of the AMINOGREEN Mark would cause confusion with Evonik’s AMINORED mark, which is the subject of Evonik’s Application Serial No.

---

<sup>1</sup> Pursuant to TBMP § 704.03(b)(2) and 37 C.F.R. § 2.122(e), a copy of the application file history for Afgritech’s Application Serial No. 78/917,849, taken from the Trademark Document Retrieval database, is attached as Exhibit A.

79/083,600 (the “AMINORED Mark”). The following undisputed material facts were established in discovery:<sup>2</sup>

- Despite claiming to have had a *bona fide* intent to use the AMINOGREEN Mark since 2006, Afgritech has no non-privileged documents relating to the creation, selection, or adoption of the Mark in the United States. (RFA No. 1; RFP No. 1).
- Despite claiming to have had a *bona fide* intent to use the AMINOGREEN Mark since 2006, Afgritech has done no trademark, service mark, or Internet domain name investigation or search relating to the Mark – or at least has no documents relating to any such search. (RFA No. 2; RFP No. 3).
- Despite claiming to have had a *bona fide* intent to use the AMINOGREEN Mark since 2006, Afgritech still – six years later – has no documents relating to when it anticipates use of the Mark in commerce in the United States. (RFA No. 4; RFP No. 9).
- Despite claiming to have had a *bona fide* intent to use the AMINOGREEN Mark since 2006, Afgritech has no documents demonstrating the types of goods or services in connection with which it intends to use the AMINOGREEN Mark specifically (as opposed to other marks) in the United States. (RFA No. 5; RFP No. 11).
- Despite claiming to have had a *bona fide* intent to use the AMINOGREEN Mark since 2006, Afgritech has no documents relating to the geographic areas or channels of trade in

---

<sup>2</sup> Pursuant to TBMP §§ 528.05(a)(1) and 528.05(c), and 37 C.F.R. §§ 2.120(j)(8) and 2.127(e)(2), the following facts are taken from: 1) Afgritech’s “Answers to Evonik’s First Set of Requests for Admission to Applicant,” which are attached as Exhibit B (the “RFAs”); 2) Afgritech’s “Objections and Responses to Opposer’s First Set of Requests for Production of Documents,” which are attached as Exhibit C (the “RFPs”); and 3) Afgritech’s “Objections and Responses to Opposer’s First Set of Interrogatories to Applicant”, which are attached as Exhibit D (the “Interrogatories”).

which it intends to use the AMINOGREEN Mark specifically (as opposed to other marks) in the United States. (RFA No. 6; RFP No. 13).

- Despite claiming to have had a *bona fide* intent to use the AMINOGREEN Mark since 2006, Afgritech has no documents relating to any advertising, marketing, or promotional materials in which it intends to use the AMINOGREEN Mark specifically (as opposed to other marks) in the United States. (RFA No. 7; RFP No. 15).
- Despite claiming to have had a *bona fide* intent to use the AMINOGREEN Mark since 2006, Afgritech has no specimens of any product, label, packaging, tag, brochure, advertisement, promotional item, informational literature, or invoice that it intends to use in the United States depicting or bearing any form of the AMINOGREEN Mark. (RFA No. 10; RFP No. 21). In fact, Afgritech does not have any documents even *relating to* any such product, label, packaging, tag, brochure, advertisement, promotional item, informational literature, or invoice. (RFA No. 11; RFP No. 23).
- Despite claiming to have had a *bona fide* intent to use the AMINOGREEN Mark since 2006, Afgritech has no specimens showing the AMINOGREEN Mark. (RFA No. 12; RFP No. 24).
- Despite claiming to have had a *bona fide* intent to use the AMINOGREEN Mark since 2006, Afgritech has no documents relating to any printed or electronic media publication in which it plans to advertise or promote its goods or services in commerce under the AMINOGREEN Mark specifically (as opposed to other marks) in the United States. (RFA No. 13; RFP No. 26).



- Despite claiming to have had a *bona fide* intent to use the AMINOGREEN Mark since 2006, Afgritech has no documents relating to its past, present, or future marketing plans for the Mark. (RFA No. 14; RFP No. 26).
- Despite claiming to have had a *bona fide* intent to use the AMINOGREEN Mark since 2006, Afgritech has no documents relating to the types of customers with whom it intends to do business, and the ultimate purchasers to whom it intends to offer goods or services, under the AMINOGREEN Mark specifically (as opposed to other marks) in the United States. (RFA No. 15; RFP No. 30).
- Despite claiming to have had a *bona fide* intent to use the AMINOGREEN Mark since 2006, Afgritech has no documents relating to any market, demographic, or consumer-profile study, or focus-group inquiry, relating to the Mark. (RFA No. 16; RFP No. 32).
- Despite claiming to have had a *bona fide* intent to use the AMINOGREEN Mark since 2006, Afgritech has no documents relating its actual and/or projected sales of goods and services under the Mark in the United States. (RFA No. 17; RFP No. 34).
- Despite claiming to have had a *bona fide* intent to use the AMINOGREEN Mark since 2006, Afgritech has no documents relating to its planned methods of distribution of goods or services under the Mark in the United States. (RFA No. 18; RFP No. 36).
- Despite claiming to have had a *bona fide* intent to use the AMINOGREEN Mark since 2006, Afgritech has no documents relating to the amount of money that it has expended or budgeted to promote its goods or services under the Mark in the United States. (RFA No. 19; RFP No. 38).

- Despite claiming to have had a *bona fide* intent to use the AMINOGREEN Mark since 2006, Afgritech has no corporate minutes, resolutions, or any other corporate records relating to the Mark. (RFA No. 20).
- Despite claiming to have had a *bona fide* intent to use the AMINOGREEN Mark since 2006, Afgritech has no employees responsible for the promotion, sale, or distribution of goods and services under the AMINOGREEN Mark specifically (as opposed to other marks) in the United States. (RFA No. 21; Interrogatory No. 1).
- Despite claiming to have had a *bona fide* intent to use the AMINOGREEN Mark since 2006, no person at Afgritech has ever made any search, inquiry, or investigation relating to the AMINOGREEN Mark in the United States. (RFA No. 22; Interrogatory No. 7).
- Despite claiming to have had a *bona fide* intent to use the AMINOGREEN Mark since 2006, Afgritech has not received any opinion relating to whether there is a likelihood of confusion between the AMINOGREEN Mark and any other mark (other than an opinion received after this Opposition was filed). (RFA No. 23; Interrogatory No. 9).
- Despite claiming to have had a *bona fide* intent to use the AMINOGREEN Mark since 2006, Afgritech has not budgeted or expended any money to promote the AMINOGREEN Mark in the United States. (RFA No. 24; Interrogatory No. 15).
- Despite claiming to have had a *bona fide* intent to use the AMINOGREEN Mark since 2006, Afgritech has not received any income, or projected any anticipated income, from the sale of goods or services under the AMINOGREEN Mark in the United States. (RFA No. 25; Interrogatory No. 16).
- Despite claiming to have had a *bona fide* intent to use the AMINOGREEN Mark since 2006, Afgritech still has no promotional documents or items that have been used or that it

is considering for use in connection with the promotion and sale of its goods and services under the Mark in the United States. (RFA No. 26; Interrogatory No. 22).

- Despite claiming to have had a *bona fide* intent to use the AMINOGREEN Mark since 2006, Afgritech cannot identify a single person with knowledge of any market research (including surveys, studies, investigations, or focus-group inquiries) relating to the AMINOGREEN Mark in the United States. (RFA No. 27; Interrogatory No. 28). Nor can Afgritech identify a single person that has participated in the creation or distribution of advertisements or promotions for its goods or services under the Mark in the United States. (RFA No. 28; Interrogatory No. 37).
- Despite claiming to have had a *bona fide* intent to use the AMINOGREEN Mark since 2006, the only non-privileged documents that Afgritech has in its possession that in any way relate to its intent to use the Mark are those documents relating to the prosecution of its successive applications for the Mark: Application Serial Nos. 78/917,849 and 85/096,047. (RFA No. 31).
- Finally, not only has Afgritech itself not used or made plans to use the AMINOGREEN Mark, it has not licensed or otherwise authorized others to do so either. (RFA No. 8; RFP No. 17).

## **ARGUMENT AND CITATION OF AUTHORITY**

### **I. INTRODUCTION.**

Evonik has moved for summary judgment that its Opposition No. 91199752 be sustained – and that Afgritech’s Application Serial No. 85/096,047 for the AMINOGREEN Mark must be refused – because Afgritech lacks the requisite “*bona fide* intention” to use the Mark in commerce. As the Trademark Trial and Appeal Board has explained:

Summary judgment is an appropriate method of disposing of cases in which there are no genuine issues of material fact in dispute, thus leaving the case to be resolved as a matter of law. A party moving for summary judgment has the burden of demonstrating the absence of any genuine issue of material fact, and that it is entitled to summary judgment as a matter of law.

*Cont'l Airlines Inc. v. United Air Lines Inc.*, 53 U.S.P.Q.2d 1385, 1386 (T.T.A.B. 1999).

Accordingly, where an opposer demonstrates that there is no genuine issue of material fact as to an applicant's lack of a *bona fide* intent to use a mark, summary judgment is appropriate. See *Honda Motor Co. v. Winkelmann*, 90 U.S.P.Q.2d 1660, 1664 (T.T.A.B. 2009) ("Because applicant has not established that there is any genuine issue of material fact as to his lack of a *bona fide* intent to use, opposer's motion for summary judgment is granted."). Moreover, a determination that Afgritech lacked the requisite *bona fide* intent to use the AMINOGREEN Mark would moot Evonik's other bases for this Opposition. See *SmithKline Beecham Corp. v. Omnisource DDS LLC*, 97 U.S.P.Q.2d 1300, 1305 (T.T.A.B. 2010) ("Because we have found that applicant lacked a *bona fide* intention to use the mark in commerce at the time it filed the involved application, we decline to make a determination on the merits on the ground of priority and likelihood of confusion."); *Saul Zaentz Co. v. Bumb*, 95 U.S.P.Q.2d 1723, 1724 n.5 (T.T.A.B. 2010) (same); *Research in Motion Ltd. v. NBOR Corp.*, 92 U.S.P.Q.2d 1926, 1931 (T.T.A.B. 2009) (same).

## **II. STANDING.**

Standing is a threshold issue that must be proven by a plaintiff in every *inter partes* case. *Ritchie v. Simpson*, 170 F.3d 1092, 1095 (Fed. Cir. 1999). The purpose of the standing requirement is to prevent litigation when there is no real controversy between the parties. *Lipton Indus., Inc. v. Ralston Purina Co.*, 670 F.2d 1024, 1028 (C.C.P.A. 1982). In this Opposition, Evonik has attached to its notice of opposition copies of the PTO database reports showing the

current status and title of its prior pending Application Serial No. 79/083,600 for its AMINORED Mark for foodstuffs for animals, among other goods and services. Such evidence establishes that Evonik has a real interest in the outcome of this proceeding; that is, that Evonik has a direct and personal stake in preventing the registration of Afgritech's AMINOGREEN Mark for animal feed supplement and livestock feed. *E.g., SmithKline Beecham Corp.*, 97 U.S.P.Q.2d at 1301. Moreover, once the standing threshold has been crossed, an opposer may rely on any legal ground that negates applicant's right to the registration it seeks. *Estate of Biro v. Bic Corp.*, 18 U.S.P.Q.2d 1382, 1386 (T.T.A.B. 1991).

## II. **BONA FIDE INTENT TO USE.**

The Trademark Act Section 1(b) provides that "a person who has a *bona fide* intention, under circumstances showing the good faith of such person, to use a trademark in commerce" may apply for registration of the mark. 15 U.S.C. § 1051(b). Thus, if an applicant *lacks* the requisite *bona fide* intent to use a mark in commerce at the time that it files an intent-to-use application, the application is invalid. *E.g., Intel Corp. v. Emeny*, 2007 WL 1520948, \*4 (T.T.A.B. May 15, 2007).<sup>3</sup> A challenge to the validity of an application on such grounds may serve as the basis for an opposition. *E.g.*, TBMP § 309.03(c)(5). In fact, the question of whether an applicant truly possessed the requisite *bona fide* intent to use an intent-to-use mark is *particularly* well suited for oppositions: while it is practically impossible for a Trademark Examining Attorney to explore the question of an applicant's *bona fide* intent in an *ex parte*

---

<sup>3</sup> This opinion is not designated as precedent of the T.T.A.B. *See, e.g.*, TBMP § 101.03 ("Decisions that are designated by the Board 'citable as precedent,' 'precedent of the Board,' or 'for publication in full' are citable as precedent. Decisions which are not so designated, or which are designated for publication only in digest form, are not binding on the Board, but may be cited for whatever persuasive weight to which they may be entitled.").

examination, such intent can more easily be tested in the context of an *inter partes* proceeding. *E.g.*, *Intel Corp.*, 2007 WL 1520948, at \*4.

The determination of whether an applicant possessed the requisite *bona fide* intent to use a mark in commerce is an objective determination based on all of the circumstances. *E.g.*, *SmithKline Beecham Corp.*, 97 U.S.P.Q.2d at 1304. An opposer has the burden of demonstrating by a preponderance of the evidence that the applicant lacked such intent. *E.g.*, *id.* One way that an opposer may do so is by demonstrating that the applicant filed previous intent-to-use applications for the same mark which were abandoned for failure to file a statement of use:

The legislative history of the Trademark Law Revision Act discusses an applicant's *bona fide* intent and sets forth an illustrative list of circumstances that "may cast doubt on the *bona fide* nature of the intent or even disprove it entirely." [These] include the filing of numerous intent-to-use applications to replace applications which have lapsed because no timely statement of use was filed.

*Research in Motion Ltd.*, 92 U.S.P.Q.2d at 1931 (citations omitted). Another way that an opposer may do so is by proving that the applicant has no documentary evidence to corroborate its supposed intent:

Absent other facts which adequately explain or outweigh the failure of an applicant to have any documents supportive of or bearing upon its claimed intent to use its mark in commerce, the absence of documentary evidence on the part of an applicant is sufficient to prove that the applicant lacks a *bona fide* intention to use the mark in commerce as required by Section 1(b).

*Commodore Elecs. Ltd. v. CBM Kabushiki Kaisha*, 26 U.S.P.Q.2d 1503, 1507 (T.T.A.B. 1993); *see also, e.g.*, *SmithKline Beecham Corp.*, 97 U.S.P.Q.2d at 1304 ("The absence of any documentary evidence on the part of an applicant regarding such intent constitutes objective proof that is sufficient to prove that the applicant lacks a *bona fide* intention to use its mark in commerce."); *Saul Zaentz Co.*, 95 U.S.P.Q.2d at 1727 (same); *Research in Motion Ltd.*, 92 U.S.P.Q.2d at 1930 (same); *Boston Red Sox Baseball Club LP v. Sherman*, 88 U.S.P.Q.2d 1581,

1587 (T.T.A.B. 2008) (same).<sup>4</sup> If an opposer meets this initial burden of proof, the burden of production then shifts to the applicant to rebut the opposer's *prima facie* case by offering additional evidence concerning the factual circumstances bearing upon its intent to use the mark in commerce. *E.g.*, *Saul Zaentz Co.*, 95 U.S.P.Q.2d at 1727.

So what types of documentary evidence are relevant to this inquiry? In a nutshell, there are certain basic documents that one would **expect** an applicant to possess if that applicant **truly** possessed a "*bona fide*" intent to use a mark, such that the absence of those documents – like the dog that didn't bark – can serve as objective proof that an applicant lacked the requisite *bona fide* intent. Such documents include:

- Documents concerning the applicant's selection and adoption of the mark. *SmithKline Beecham Corp.*, 97 U.S.P.Q.2d at 1302.
- Documents concerning the applicant's trademark searches and investigations for the mark. *Boston Red Sox Baseball Club LP*, 88 U.S.P.Q.2d at 1587.
- Proposed specimens, labels, tags, or packaging incorporating the mark. *SmithKline Beecham Corp.*, 97 U.S.P.Q.2d at 1302; *Boston Red Sox Baseball Club LP*, 88 U.S.P.Q.2d at 1587.
- Documents concerning the applicant's intended advertising, marketing, or promotion of goods under the mark. *SmithKline Beecham Corp.*, 97 U.S.P.Q.2d at 1302; *Honda Motor Co.*, 90 U.S.P.Q.2d at 1663; *Boston Red Sox Baseball Club LP*, 88 U.S.P.Q.2d at 1587.

---

<sup>4</sup> Such an absence of documentary evidence is sufficient to prove that the applicant lacked a *bona fide* intent to use its mark in commerce **even if** the opposer cannot show that the applicant acted with bad faith to deceive the PTO. The lack of a *bona fide* intent to use a mark is not the same as fraud, and an opposer need not prove the latter in order to prevail on the former. *E.g.*, *SmithKline Beecham Corp.*, 97 U.S.P.Q.2d at 1305.

- Business plans or strategies for the use of the mark. *SmithKline Beecham Corp.*, 97 U.S.P.Q.2d at 1302; *Research in Motion Ltd.*, 92 U.S.P.Q.2d at 1930; *Honda Motor Co.*, 90 U.S.P.Q.2d at 1662.
- Documents concerning the applicant's intended pricing for the goods to be sold under the mark. *SmithKline Beecham Corp.*, 97 U.S.P.Q.2d at 1302.
- Documents concerning the channels of trade that the applicant is planning to use for the goods to be sold under the mark. *Research in Motion Ltd.*, 92 U.S.P.Q.2d at 1930; *Honda Motor Co.*, 90 U.S.P.Q.2d at 1663.
- Documents concerning the classes of consumers or geographic areas that the applicant is planning to target for the goods to be sold under the mark. *SmithKline Beecham Corp.*, 97 U.S.P.Q.2d at 1302; *Research in Motion Ltd.*, 92 U.S.P.Q.2d at 1930.
- Market studies, surveys, or focus groups regarding the mark. *Research in Motion Ltd.*, 92 U.S.P.Q.2d at 1930.
- Documents concerning the applicant's plans for expansion and growth of product and service lines under the mark. *Research in Motion Ltd.*, 92 U.S.P.Q.2d at 1930.
- Documents concerning the applicant's expected date of first use of the mark in commerce. *Research in Motion Ltd.*, 92 U.S.P.Q.2d at 1930.
- Documents concerning the applicant's plans to license the mark, if it is not going to use the mark itself. *SmithKline Beecham Corp.*, 97 U.S.P.Q.2d at 1302.

Conversely, while the existence or absence of the foregoing types of documents are relevant to proving or disproving an applicant's *bona fide* intent to use a mark, there are certain kinds of evidence that are *not* relevant to the inquiry, and that an applicant may *not* use to overcome a *prima facie* showing that it lacked a *bona fide* intent to use its mark in commerce.



First, the mere fact that an applicant has filed an intent-to-use application cannot *alone* establish its *bona fide* intent to use a mark; if it could, then the lack of a *bona fide* intent to use a mark would *never* be a ground for opposition or cancellation, because an *inter partes* proceeding can only be brought if the defendant has filed an application in the first place. *E.g., SmithKline Beecham Corp.*, 97 U.S.P.Q.2d at 1304. Second, an applicant's mere statement that it subjectively intends to use a mark cannot overcome an absence of documentary evidence supporting such a claim:

Evidence bearing on *bona fide* intent is "objective" in the sense that it is evidence in the form of real life facts and by the actions of the applicant, not solely by applicant's uncorroborated testimony as to its subjective state of mind. That is to say, Congress did not intend the issue to be resolved simply by an officer of applicant later testifying, "Yes, indeed, at the time we filed that application, I did truly intend to use the mark at some time in the future."

*E.g., SmithKline Beecham Corp.*, 97 U.S.P.Q.2d at 1305 (citations omitted); *Saul Zaentz Co.*, 95 U.S.P.Q.2d at 1727 (same); *Research in Motion Ltd.*, 92 U.S.P.Q.2d at 1931 (same); *accord L.C. Licensing Inc. v. Berman*, 86 U.S.P.Q.2d 1883, 1892 (T.T.A.B. 2008) ("The mere assertion of an intent to use the mark without corroboration of any sort, whether documentary or otherwise, is not likely to provide credible evidence to establish a *bona fide* intention to use the mark."). Third, an applicant may not overcome an absence of documentary evidence by pointing to foreign registrations, or Internet uses of a mark that are directed to foreign consumers, if such do not show that applicant intended to use the mark *in the United States*. *Honda Motor Co.*, 90 U.S.P.Q.2d at 1664.

### **III. AFGRITECH DOES NOT HAVE THE REQUISITE *BONA FIDE* INTENT TO USE THE AMINOGREEN MARK.**

Applying the foregoing legal principles to the facts of this Opposition, it is beyond dispute that Afgritech did not have – and has *never* had – any kind of "*bona fide*" intent to use

the AMINOGREEN Mark in commerce. To begin with, Afgritech's first application for the AMINOGREEN Mark – Application Serial No. 78/917,849 – was abandoned because Afgritech failed to file a Statement of Use in the allotted time. Afgritech filed the instant Application Serial No. 85/096,047 a mere one month later. As noted above, the filing of successive intent-to-use applications to replace applications which have lapsed because no timely statement of use was filed “may cast doubt” on the *bona fide* nature of an applicant's intent – or even “disprove it entirely.” *E.g., Research in Motion Ltd.*, 92 U.S.P.Q.2d at 1931 (citations omitted).

But even *if* Afgritech could somehow explain away its abandonment of its Application Serial No. 78/917,849 for the AMINOGREEN Mark (and it cannot), it cannot possibly explain why it has done absolutely *nothing* regarding the AMINOGREEN Mark (other than file another application) in the almost-six years since it filed that application. To reiterate: even though Afgritech has supposedly possessed a *bona fide* intent to use the AMINOGREEN Mark for almost six years now (dating back to June of 2006), it has no corporate minutes, resolutions, or any other corporate records relating to the Mark; no employees responsible for the promotion, sale, or distribution of goods and services under the Mark; and no promotional documents or items that it has used or that it is considering using in connection with the promotion and sale of its goods and services under the Mark. Likewise, Afgritech cannot identify a single employee that has ever made any search, inquiry, or investigation relating to the Mark; that has knowledge of any market research (including surveys, studies, investigations, or focus-group inquiries) relating to the Mark; or that has participated in the creation or distribution of advertisements or promotions for goods or services under the Mark. Nor has Afgritech budgeted or expended any money to promote the Mark, or received any income, or projected any anticipated income, from the sale of goods or services under the Mark.

In addition, Afgritech has absolutely no documentation to substantiate or corroborate its supposed intent to use the AMINOGREEN Mark. Again, Afgritech has supposedly possessed a *bona fide* intent to use the AMINOGREEN Mark for almost *six years*. Yet Afgritech does not have any of the following:

- Any documents relating to its creation, selection, or adoption of the Mark.
- Any trademark, service mark, or Internet domain name investigation or search relating to the Mark.
- Any documents relating to its anticipated first use in commerce of the Mark.
- Any documents demonstrating the types of goods or services in connection with which it intends to use the Mark.
- Any documents relating to the geographic areas and channels of trade in which it intends to use the Mark.
- Any documents relating to any advertising, marketing, or promotional materials in which it intends to use the Mark.
- Any specimens of any product, label, packaging, tag, brochure, advertisement, promotional item, informational literature, or invoice that it intends to use depicting or bearing any form of the Mark, or any documents even *relating to* any such product, label, packaging, tag, brochure, advertisement, promotional item, informational literature, or invoice.
- Any specimens showing any variation of the Mark.
- Any documents relating to any printed or electronic media publication in which it plans to advertise or promote its goods or services in commerce under the Mark.
- Any documents relating to its past, present, or future marketing plans for the Mark.

- Any documents relating to the types of customers with whom it intends to do business under the Mark.
- Any documents relating to any market, demographic, or consumer-profile study, or focus-group inquiry, relating to the Mark.
- Any documents relating its projected sales of goods and services under the Mark.
- Any documents relating to its methods of distribution of goods or services under the Mark.
- Any documents relating to the amount of money that it has expended or budgeted to promote its goods or services under the Mark.

As the Trademark Trial and Appeal Board has recognized, the utter absence of such documents is sufficient to prove that Afgritech lacked a *bona fide* intent to use the Mark. *SmithKline Beecham Corp.*, 97 U.S.P.Q.2d at 1302; *Research in Motion Ltd.*, 92 U.S.P.Q.2d at 1930; *Honda Motor Co.*, 90 U.S.P.Q.2d at 1663; *Boston Red Sox Baseball Club LP*, 88 U.S.P.Q.2d at 1587.

Because Evonik has met its initial burden of proof, the burden of production then shifts to Afgritech to rebut Evonik's *prima facie* case by offering additional evidence concerning the factual circumstances bearing upon its intent to use the AMINOGREEN Mark in commerce. *E.g.*, *Saul Zaentz Co.*, 95 U.S.P.Q.2d at 1727. Evonik cannot fathom how Afgritech could do so. It cannot rely on the mere fact that it has filed two intent-to-use applications for the AMINOGREEN Mark. *E.g.*, *SmithKline Beecham Corp.*, 97 U.S.P.Q.2d at 1304. It cannot rely on affidavits claiming that it subjectively intends to use the Mark. *E.g.*, *SmithKline Beecham Corp.*, 97 U.S.P.Q.2d at 1305; *Saul Zaentz Co.*, 95 U.S.P.Q.2d at 1727 (same); *Research in Motion Ltd.*, 92 U.S.P.Q.2d at 1931 (same). Nor can it rely on any foreign registrations or uses. *Honda Motor Co.*, 90 U.S.P.Q.2d at 1664. In short, without *any* documentary evidence of *any*

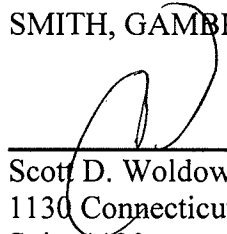
kind to support its supposed *bona fide* intent to use, and without any possible rebuttal evidence, Afgritech cannot show that there is any genuine issue of material fact as to its intent to use the AMINOGREEN Mark.

#### IV. CONCLUSION.

Evonik is entitled to summary judgment that Afgritech does not possess the requisite *bona fide* intent to use the AMINOGREEN Mark. Afgritech has supposedly possessed such intent for six years now, yet has nothing to show for it except one abandoned application. Evonik's Opposition No. 91199752 must be sustained – and Afgritech's Application Serial No. 85/096,047 must be refused – on this ground alone. Afgritech's Opposition No. 91200334 against Evonik's Application Serial No. 79/083,600 for the AMINORED Mark – which was consolidated with Evonik's Opposition No. 91199752 on August 11, 2011 – should remain unaffected by the adjudication of this motion, except that all proceedings in that opposition should be suspended pending disposition of the instant motion pursuant to TBMP § 528.03.

Respectfully submitted this 17<sup>th</sup> day of April, 2012.

SMITH, GAMBRELL & RUSSELL, LLP



---

Scott D. Woldow  
1130 Connecticut Ave., N.W.  
Suite 1130  
Washington, D.C. 20036  
(202) 263-4300  
Facsimile: (202) 263-4329  
Email: sdwoldow@sgrlaw.com

J. Rodgers Lunsford III  
1230 Peachtree St. NE  
Promenade II, Suite 3100  
Atlanta, GA 30309  
(404) 815-3628  
Facsimile: (404) 685-6928

Email: [rlunsford@sgrlaw.com](mailto:rlunsford@sgrlaw.com)

Attorneys for Evonik Degussa GmbH

032301.691OPP 9435878.2

In the Matter of Application Serial Nos. 85/096,047 and 79/083,600

Opposition No. 91199752 (parent)  
Opposition No. 91200334

I, Scott D. Woldow, counsel for Evonik Degussa GmbH, do hereby certify that EVONIK DEGUSSA GMBH'S MOTION FOR SUMMARY JUDGMENT AND MEMORANDUM OF LAW IN SUPPORT was on this day served upon Afgritech Ltd. pursuant to 37 C.F.R. § 2.119(b)(4) by first-class mail, addressed as follows:

Pursuant to 37 C.F.R. § 2.119(b)(6) and to the July 21, 2011 letter between counsel for Evonik and Afgritech, a courtesy copy was also sent by email.

Scott D. Woldow

# EXHIBIT A



**Trademark Snap Shot ITU Unit Action**  
(Table presents the data on ITU Unit Action)

**OVERVIEW**

SERIAL NUMBER	78917849	FILING DATE	06/27/2006
REG NUMBER	0000000	REG DATE	N/A
REGISTER	PRINCIPAL	MARK TYPE	TRADEMARK
INTL REG #	N/A	INTL REG DATE	N/A
TM ATTORNEY	HETZEL, DANNEAN	L.O. ASSIGNED	106

**PUB INFORMATION**

RUN DATE	06/08/2010
PUB DATE	02/13/2007
STATUS	606-ABANDONED - NO STATEMENT OF USE FILED
STATUS DATE	06/07/2010
LITERAL MARK ELEMENT	AMINOGREEN

DATE ABANDONED	06/07/2010	DATE CANCELLED	N/A
SECTION 2F	NO	SECTION 2F IN PART	NO
SECTION 8	NO	SECTION 8 IN PART	NO
SECTION 15	NO	REPUB 12C	N/A
RENEWAL FILED	NO	RENEWAL DATE	N/A
DATE AMEND REG	N/A		

**FILING BASIS**

FILED BASIS		CURRENT BASIS		AMENDED BASIS	
1 (a)	NO	1 (a)	NO	1 (a)	NO
1 (b)	YES	1 (b)	YES	1 (b)	NO
44D	NO	44D	NO	44D	NO
44E	NO	44E	NO	44E	NO
66A	NO	66A	NO		
NO BASIS	NO	NO BASIS	NO		

**MARK DATA**

STANDARD CHARACTER MARK	YES
LITERAL MARK ELEMENT	AMINOGREEN

MARK DRAWING CODE	4-STANDARD CHARACTER MARK
COLOR DRAWING FLAG	NO

### CURRENT OWNER INFORMATION

PARTY TYPE	20-OWNER AT PUBLICATION
NAME	AFGRITECH LTD.
ADDRESS	Old Croft, Stanwix Carlisle, CA3 9BA
ENTITY	03-CORPORATION
CITIZENSHIP	United Kingdom

### GOODS AND SERVICES

INTERNATIONAL CLASS	005
DESCRIPTION TEXT	animal feed supplement
INTERNATIONAL CLASS	031
DESCRIPTION TEXT	livestock feed

### GOODS AND SERVICES CLASSIFICATION

INTERNATIONAL CLASS	005	FIRST USE DATE	NONE	FIRST USE IN COMMERCE DATE	NONE	CLASS STATUS	6-ACTIVE
INTERNATIONAL CLASS	031	FIRST USE DATE	NONE	FIRST USE IN COMMERCE DATE	NONE	CLASS STATUS	6-ACTIVE

### MISCELLANEOUS INFORMATION/STATEMENTS

CHANGE IN REGISTRATION	NO
PSEUDO MARK	AMINO GREEN

### PROSECUTION HISTORY

DATE	ENT CD	ENT TYPE	DESCRIPTION	ENT NUM
06/07/2010	MAB6	O	ABANDONMENT NOTICE MAILED - NO USE STATEMENT FILED	028
06/07/2010	ABN6	S	ABANDONMENT - NO USE STATEMENT FILED	027
10/27/2009	EX5G	S	EXTENSION 5 GRANTED	026
10/12/2009	EXT5	S	EXTENSION 5 FILED	025

10/27/2009	AITU	A	CASE ASSIGNED TO INTENT TO USE PARALEGAL	024
10/12/2009	EEXT	I	TEAS EXTENSION RECEIVED	023
04/21/2009	EX4G	S	EXTENSION 4 GRANTED	022
04/21/2009	EXT4	S	EXTENSION 4 FILED	021
04/21/2009	EEXT	I	TEAS EXTENSION RECEIVED	020
10/17/2008	EX3G	S	EXTENSION 3 GRANTED	019
10/17/2008	EXT3	S	EXTENSION 3 FILED	018
10/17/2008	EEXT	I	TEAS EXTENSION RECEIVED	017
04/29/2008	EX2G	S	EXTENSION 2 GRANTED	016
04/18/2008	EXT2	S	EXTENSION 2 FILED	015
04/18/2008	EEXT	I	TEAS EXTENSION RECEIVED	014
02/07/2008	TCCA	I	TEAS CHANGE OF CORRESPONDENCE RECEIVED	013
10/16/2007	EX1G	S	EXTENSION 1 GRANTED	012
10/16/2007	EXT1	S	EXTENSION 1 FILED	011
10/16/2007	EEXT	I	TEAS EXTENSION RECEIVED	010
05/08/2007	NOAM	O	NOA MAILED - SOU REQUIRED FROM APPLICANT	009
02/13/2007	PUBO	A	PUBLISHED FOR OPPOSITION	008
01/24/2007	NPUB	O	NOTICE OF PUBLICATION	007
12/15/2006	PREV	O	LAW OFFICE PUBLICATION REVIEW COMPLETED	006
12/15/2006	ALIE	A	ASSIGNED TO LIE	005
11/30/2006	CNSA	P	APPROVED FOR PUB - PRINCIPAL REGISTER	004
11/29/2006	DOCK	D	ASSIGNED TO EXAMINER	003
07/04/2006	MPMK	O	NOTICE OF PSEUDO MARK MAILED	002
07/03/2006	NWAP	I	NEW APPLICATION ENTERED IN TRAM	001

### CURRENT CORRESPONDENCE INFORMATION

ATTORNEY	Thomas H. Van Hoozer
CORRESPONDENCE ADDRESS	Thomas H. Van Hoozer HOVEY WILLIAMS LLP Suite 1000 10801 Mastin Blvd. Overland Park KS 66210
DOMESTIC REPRESENTATIVE	Thomas H. Van Hoozer

### PRIOR OWNER INFORMATION

PARTY TYPE	10-ORIGINAL APPLICANT
NAME	AFGRITECH LTD.
ADDRESS	Old Croft, Stanwix

	Carlisle, CA3 9BA
ENTITY	03-CORPORATION
CITIZENSHIP	United Kingdom

# AMINO GREEN

Side - 1



**NOTICE OF ABANDONMENT**  
**MAILING DATE: Jun 7, 2010**

The trademark application identified below was abandoned because the applicant failed to file for a statement of use or an extension of time.

If the delay in filing a response was unintentional, you may file a petition to revive the application with a fee. If the abandonment of this application was due to USPTO error, you may file a request for reinstatement. Please note that a petition to revive or request for reinstatement **must be received within two months from the mailing date of this notice.**

For additional information, go to <http://www.uspto.gov/teas/petinfo.htm>. If you are unable to get the information you need from the website, call the Trademark Assistance Center at 1-800-786-9199.

**SERIAL NUMBER:** 78917849  
**MARK:** AMINOGREEN  
**OWNER:** AFGRITECH LTD.

Side - 2

UNITED STATES PATENT AND TRADEMARK OFFICE  
COMMISSIONER FOR TRADEMARKS  
P.O. BOX 1451  
ALEXANDRIA, VA 22313-1451

FIRST-CLASS  
MAIL  
U.S POSTAGE  
PAID

Thomas H. Van Hoozer  
HOVEY WILLIAMS LLP  
10801 Mastin Blvd.  
Suite 1000  
Overland Park , KS 66210



Side - 1



**NOTICE OF APPROVAL  
OF EXTENSION REQUEST  
MAILING DATE: Oct 28, 2009**

A Notice of Allowance issued for the trademark application identified below on May 8, 2007 . The FIFTH request for extension of time to file a Statement of Use has been approved. Applicant must continue to file extension requests every 6 months calculated from the date the Notice of Allowance was issued until a Statement of Use is filed. Please note that a Statement of Use cannot be filed more than 36 months from the issuance date of the Notice of Allowance.

For further information, visit our website at: <http://www.uspto.gov> or call the Trademark Assistance Center at 1-800-786-9199.

**SERIAL NUMBER: 78917849**  
**MARK: AMINOGREEN**  
**OWNER: AFGRITECH LTD.**

Side - 2

UNITED STATES PATENT AND TRADEMARK OFFICE  
COMMISSIONER FOR TRADEMARKS  
P.O. BOX 1451  
ALEXANDRIA, VA 22313-1451

**FIRST-CLASS  
MAIL  
U.S POSTAGE  
PAID**

Thomas H. Van Hoozer  
HOVEY WILLIAMS LLP  
10801 Mastin Blvd.  
Suite 1000  
Overland Park, KS 66210



**Trademark Snap Shot ITU Unit Action**  
(Table presents the data on ITU Unit Action)

**OVERVIEW**

SERIAL NUMBER	78917849	FILING DATE	06/27/2006
REG NUMBER	0000000	REG DATE	N/A
REGISTER	PRINCIPAL	MARK TYPE	TRADEMARK
INTL REG #	N/A	INTL REG DATE	N/A
TM ATTORNEY	HETZEL, DANNEAN	L.O. ASSIGNED	106

**PUB INFORMATION**

RUN DATE	10/28/2009
PUB DATE	02/13/2007
STATUS	734-FIFTH EXTENSION - GRANTED
STATUS DATE	10/27/2009
LITERAL MARK ELEMENT	AMINOGREEN

DATE ABANDONED	N/A	DATE CANCELLED	N/A
SECTION 2F	NO	SECTION 2F IN PART	NO
SECTION 8	NO	SECTION 8 IN PART	NO
SECTION 15	NO	REPUB 12C	N/A
RENEWAL FILED	NO	RENEWAL DATE	N/A
DATE AMEND REG	N/A		

**FILING BASIS**

FILED BASIS		CURRENT BASIS		AMENDED BASIS	
1 (a)	NO	1 (a)	NO	1 (a)	NO
1 (b)	YES	1 (b)	YES	1 (b)	NO
44D	NO	44D	NO	44D	NO
44E	NO	44E	NO	44E	NO
66A	NO	66A	NO		
NO BASIS	NO	NO BASIS	NO		

**MARK DATA**

STANDARD CHARACTER MARK	YES
LITERAL MARK ELEMENT	AMINOGREEN

MARK DRAWING CODE	4-STANDARD CHARACTER MARK
COLOR DRAWING FLAG	NO

### CURRENT OWNER INFORMATION

PARTY TYPE	20-OWNER AT PUBLICATION
NAME	AFGRITECH LTD.
ADDRESS	Old Croft, Stanwix Carlisle, CA3 9BA
ENTITY	03-CORPORATION
CITIZENSHIP	United Kingdom

### GOODS AND SERVICES

INTERNATIONAL CLASS	005
DESCRIPTION TEXT	animal feed supplement
INTERNATIONAL CLASS	031
DESCRIPTION TEXT	livestock feed

### GOODS AND SERVICES CLASSIFICATION

INTERNATIONAL CLASS	005	FIRST USE DATE	NONE	FIRST USE IN COMMERCE DATE	NONE	CLASS STATUS	6-ACTIVE
INTERNATIONAL CLASS	031	FIRST USE DATE	NONE	FIRST USE IN COMMERCE DATE	NONE	CLASS STATUS	6-ACTIVE

### MISCELLANEOUS INFORMATION/STATEMENTS

CHANGE IN REGISTRATION	NO
PSEUDO MARK	AMINO GREEN

### PROSECUTION HISTORY

DATE	ENT CD	ENT TYPE	DESCRIPTION	ENT NUM
10/27/2009	EX5G	S	EXTENSION 5 GRANTED	026
10/12/2009	EXT5	S	EXTENSION 5 FILED	025
10/27/2009	AITU	A	CASE ASSIGNED TO INTENT TO USE PARALEGAL	024
10/12/2009	EEXT	I	TEAS EXTENSION RECEIVED	023

04/21/2009	EX4G	S	EXTENSION 4 GRANTED	022
04/21/2009	EXT4	S	EXTENSION 4 FILED	021
04/21/2009	EEXT	I	TEAS EXTENSION RECEIVED	020
10/17/2008	EX3G	S	EXTENSION 3 GRANTED	019
10/17/2008	EXT3	S	EXTENSION 3 FILED	018
10/17/2008	EEXT	I	TEAS EXTENSION RECEIVED	017
04/29/2008	EX2G	S	EXTENSION 2 GRANTED	016
04/18/2008	EXT2	S	EXTENSION 2 FILED	015
04/18/2008	EEXT	I	TEAS EXTENSION RECEIVED	014
02/07/2008	TCCA	I	TEAS CHANGE OF CORRESPONDENCE RECEIVED	013
10/16/2007	EX1G	S	EXTENSION 1 GRANTED	012
10/16/2007	EXT1	S	EXTENSION 1 FILED	011
10/16/2007	EEXT	I	TEAS EXTENSION RECEIVED	010
05/08/2007	NOAM	O	NOA MAILED - SOU REQUIRED FROM APPLICANT	009
02/13/2007	PUBO	A	PUBLISHED FOR OPPOSITION	008
01/24/2007	NPUB	O	NOTICE OF PUBLICATION	007
12/15/2006	PREV	O	LAW OFFICE PUBLICATION REVIEW COMPLETED	006
12/15/2006	ALIE	A	ASSIGNED TO LIE	005
11/30/2006	CNSA	P	APPROVED FOR PUB - PRINCIPAL REGISTER	004
11/29/2006	DOCK	D	ASSIGNED TO EXAMINER	003
07/04/2006	MPMK	O	NOTICE OF PSEUDO MARK MAILED	002
07/03/2006	NWAP	I	NEW APPLICATION ENTERED IN TRAM	001

### CURRENT CORRESPONDENCE INFORMATION

ATTORNEY	Thomas H. Van Hoozer
CORRESPONDENCE ADDRESS	Thomas H. Van Hoozer HOVEY WILLIAMS LLP Suite 1000 10801 Mastin Blvd. Overland Park KS 66210
DOMESTIC REPRESENTATIVE	Thomas H. Van Hoozer

### PRIOR OWNER INFORMATION

PARTY TYPE	10-ORIGINAL APPLICANT
NAME	AFGRITECH LTD.
ADDRESS	Old Croft, Stanwix Carlisle, CA3 9BA
ENTITY	03-CORPORATION
CITIZENSHIP	United Kingdom

\_\_\_\_\_

# AMINO GREEN

## SOU Extension Request (15 U.S.C. Section 1051(d))

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	78917849
LAW OFFICE ASSIGNED	LAW OFFICE 106
MARK SECTION	
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	AMINOGREEN
OWNER SECTION (no change)	
GOODS AND/OR SERVICES SECTION	
INTERNATIONAL CLASS	005
CURRENT IDENTIFICATION	animal feed supplement
GOODS OR SERVICES	KEEP ALL LISTED
INTERNATIONAL CLASS	031
CURRENT IDENTIFICATION	livestock feed
GOODS OR SERVICES	KEEP ALL LISTED
EXTENSION SECTION	
EXTENSION NUMBER	5
ONGOING EFFORT	product or service research or development
ALLOWANCE MAIL DATE	05/08/2007
STATEMENT OF USE	NO
PAYMENT SECTION	
NUMBER OF CLASSES	2
SUBTOTAL AMOUNT	300
TOTAL AMOUNT	300

**SIGNATURE SECTION**

<b>SIGNATORY FILE NAME(S)</b>	<u>\\TICRS\EXPORT8\IMAGEOUT8</u> <u>\789\178\78917849\xml1\ES U0002.JPG</u>
<b>SIGNATORY'S NAME</b>	Christopher N.C. Holmes
<b>SIGNATORY'S POSITION</b>	Chief Executive Officer
<b>FILING INFORMATION</b>	
<b>SUBMIT DATE</b>	Mon Oct 12 12:29:28 EDT 2009
<b>TEAS STAMP</b>	USPTO/ESU-70.43.171.130-2 0091012122928894498-78917 849-4602faa54565ea48817dc 99e50858f298e-DA-8233-200 91012121109709721

---

**SOU Extension Request  
(15 U.S.C. Section 1051(d))**

To the Commissioner for Trademarks:

**MARK:** AMINOGREEN

**SERIAL NUMBER:** 78917849

The applicant, AFGRITECH LTD., having an address of  
Old Croft, Stanwix  
Carlisle, CA3 9BA  
United Kingdom

requests a six-month extension of time to file the Statement of Use under 37 C.F.R. Section 2.89 in this application. The Notice of Allowance mailing date was 05/08/2007.

For International Class 005:

Current identification: animal feed supplement

The applicant has a continued bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with all of the goods and/or services listed in the Notice of Allowance or as subsequently modified for this specific class.

For International Class 031:

Current identification: livestock feed

The applicant has a continued bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with all of the goods and/or services listed in the Notice of Allowance or as subsequently modified for this specific class.

This is the fifth extension request. The applicant has made the following ongoing efforts to use the mark in commerce on or in connection with each of those goods and/or services covered by the extension request: product or service research or development

A fee payment in the amount of \$300 will be submitted with the form, representing payment for 2 classes.

**Declaration**



Signature

Signatory's Name: Christopher N.C. Holmes  
Signatory's Position: Chief Executive Officer

RAM Sale Number: 8233  
RAM Accounting Date: 10/13/2009

Serial Number: 78917849  
Internet Transmission Date: Mon Oct 12 12:29:28 EDT 2009  
TEAS Stamp: USPTO/ESU-70.43.171.130-2009101212292889  
4498-78917849-4602faa54565ea48817dc99e50  
858f298e-DA-8233-20091012121109709721

FROM: HUEY, WILLIAMS

913 647 9057

8057

10/07/2009 16:10:10/10/07/2009

**SOU Extension Request  
(15 U.S.C. Section 1051(d))**

Handwritten Signature  
To the Commissioner for Trademarks:

MARK: AMINOGREEN  
SERIAL NUMBER: 78917849

The applicant, AFRITECH LTD., having an address of  
Old Croft, Stanwix  
Carlisle, CA3 9BA  
United Kingdom

requests a six-month extension of time to file the Statement of Use under 37 C.F.R. Section 2.89 in this application. The Notice of Allowance mailing date was 05/08/2007.

For International Class 005:  
Current identification: animal feed supplement

The applicant has a continued bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with all of the goods and/or services listed in the Notice of Allowance or as subsequently modified for this specific class.

For International Class 031:  
Current identification: livestock feed

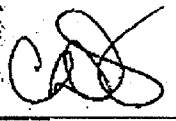
The applicant has a continued bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with all of the goods and/or services listed in the Notice of Allowance or as subsequently modified for this specific class.

This is the fifth extension request. The applicant has made the following ongoing efforts to use the mark in commerce on or in connection with each of those goods and/or services covered by the extension request: product or service research or development

**Declaration**

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements may jeopardize the validity of the form or any resulting registration, declares that he/she is properly authorized to execute this form on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the form is being filed under 15 U.S.C. Section 1126(d) or (e), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Signature Section:

Signature:   
Signatory's Name: Christopher N.C. Holmes  
Signatory's Position: Chief Executive Officer

Date Signed: 12th October 2009

**TEAS ROUTING SHEET**

**To: INTENT TO USE UNIT**

**Work Loc: INTENT TO USE SECTION**

**Doc Type: Extension Request for SOU**



**Serial Number: 78917849**



**Mark: AMINOGREEN**

**Mail Date: 2009/10/12**



**Examiner Number: 81840**



**Examiner Name:  
HETZEL, DANNEAN**

**LIE Number: 78145**



**LIE Name:  
RIVERA, ANTJUAN M**

**L.O. Assigned: LAW OFFICE 106**

**Special Instruction(s):**

<u>Transaction</u>	<u>Fee Code</u>	<u>Transaction Date</u>	<u>Fee per Class</u>	<u>Number of Classes</u>	<u>Total Fee</u>
Extension Request for SOU	7004	20091012	\$150	2	\$300

FROM: ROYCE WILLIAMS

913 647 9057

8057

10/01/2009 16:10:00/16:10:00

**SOU Extension Request  
(15 U.S.C. Section 1051(d))**

Handwritten Signature  
To the Commissioner for Trademarks:

MARK: AMINOGREEN  
SERIAL NUMBER: 78917849

The applicant, AFRITECH LTD., having an address of  
Old Croft, Stanwix  
Carlisle, CA3 9BA  
United Kingdom

requests a six-month extension of time to file the Statement of Use under 37 C.F.R. Section 2.89 in this application. The Notice of Allowance mailing date was 05/08/2007.

For International Class 005:  
Current identification: animal feed supplement

The applicant has a continued bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with all of the goods and/or services listed in the Notice of Allowance or as subsequently modified for this specific class.

For International Class 031:  
Current identification: livestock feed

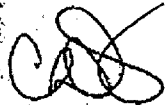
The applicant has a continued bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with all of the goods and/or services listed in the Notice of Allowance or as subsequently modified for this specific class.

This is the fifth extension request. The applicant has made the following ongoing efforts to use the mark in commerce on or in connection with each of those goods and/or services covered by the extension request: product or service research or development

**Declaration**

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements may jeopardize the validity of the form or any resulting registration, declares that he/she is properly authorized to execute this form on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the form is being filed under 15 U.S.C. Section 1126(d) or (e), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Signature Section:



Signature  
Signatory's Name: Christopher N.C. Holmes  
Signatory's Position: Chief Executive Officer

Date Signed:

12th October 2009

Side - 1



**NOTICE OF APPROVAL  
OF EXTENSION REQUEST  
MAILING DATE: Apr 23, 2009**

A Notice of Allowance issued for the trademark application identified below on May 8, 2007 . The FOURTH request for extension of time to file a Statement of Use has been approved. Applicant must continue to file extension requests every 6 months calculated from the date the Notice of Allowance was issued until a Statement of Use is filed. Please note that a Statement of Use cannot be filed more than 36 months from the issuance date of the Notice of Allowance.

For further information, visit our website at: <http://www.uspto.gov> or call the Trademark Assistance Center at 1-800-786-9199.

**SERIAL NUMBER: 78917849**  
**MARK: AMINO GREEN**  
**OWNER: AFGRITECH LTD.**

Side - 2

UNITED STATES PATENT AND TRADEMARK OFFICE  
COMMISSIONER FOR TRADEMARKS  
P.O. BOX 1451  
ALEXANDRIA, VA 22313-1451

FIRST-CLASS  
MAIL  
U.S POSTAGE  
PAID

Thomas H. Van Hoozer  
HOVEY WILLIAMS LLP  
10801 Mastin Blvd.  
Suite 1000  
Overland Park, KS 66210

**Trademark Snap Shot ITU Unit Action**  
(Table presents the data on ITU Unit Action)

**OVERVIEW**

SERIAL NUMBER	78917849	FILING DATE	06/27/2006
REG NUMBER	0000000	REG DATE	N/A
REGISTER	PRINCIPAL	MARK TYPE	TRADEMARK
INTL REG #	N/A	INTL REG DATE	N/A
TM ATTORNEY	HETZEL, DANNEAN	L.O. ASSIGNED	106

**PUB INFORMATION**

RUN DATE	04/23/2009
PUB DATE	02/13/2007
STATUS	733-FOURTH EXTENSION - GRANTED
STATUS DATE	04/21/2009
LITERAL MARK ELEMENT	AMINOGREEN

DATE ABANDONED	N/A	DATE CANCELLED	N/A
SECTION 2F	NO	SECTION 2F IN PART	NO
SECTION 8	NO	SECTION 8 IN PART	NO
SECTION 15	NO	REPUB 12C	N/A
RENEWAL FILED	NO	RENEWAL DATE	N/A
DATE AMEND REG	N/A		

**FILING BASIS**

FILED BASIS		CURRENT BASIS		AMENDED BASIS	
1 (a)	NO	1 (a)	NO	1 (a)	NO
1 (b)	YES	1 (b)	YES	1 (b)	NO
44D	NO	44D	NO	44D	NO
44E	NO	44E	NO	44E	NO
66A	NO	66A	NO		
NO BASIS	NO	NO BASIS	NO		

**MARK DATA**

STANDARD CHARACTER MARK	YES
LITERAL MARK ELEMENT	AMINOGREEN

MARK DRAWING CODE	4-STANDARD CHARACTER MARK
COLOR DRAWING FLAG	NO

### CURRENT OWNER INFORMATION

PARTY TYPE	20-OWNER AT PUBLICATION
NAME	AFGRITECH LTD.
ADDRESS	Old Croft, Stanwix Carlisle, CA3 9BA
ENTITY	03-CORPORATION
CITIZENSHIP	United Kingdom

### GOODS AND SERVICES

INTERNATIONAL CLASS	005
DESCRIPTION TEXT	animal feed supplement
INTERNATIONAL CLASS	031
DESCRIPTION TEXT	livestock feed

### GOODS AND SERVICES CLASSIFICATION

INTERNATIONAL CLASS	005	FIRST USE DATE	NONE	FIRST USE IN COMMERCE DATE	NONE	CLASS STATUS	6-ACTIVE
INTERNATIONAL CLASS	031	FIRST USE DATE	NONE	FIRST USE IN COMMERCE DATE	NONE	CLASS STATUS	6-ACTIVE

### MISCELLANEOUS INFORMATION/STATEMENTS

CHANGE IN REGISTRATION	NO
PSEUDO MARK	AMINO GREEN

### PROSECUTION HISTORY

DATE	ENT CD	ENT TYPE	DESCRIPTION	ENT NUM
04/21/2009	EX4G	S	EXTENSION 4 GRANTED	022
04/21/2009	EXT4	S	EXTENSION 4 FILED	021
04/21/2009	EEXT	I	TEAS EXTENSION RECEIVED	020
10/17/2008	EX3G	S	EXTENSION 3 GRANTED	019

10/17/2008	EXT3	S	EXTENSION 3 FILED	018
10/17/2008	EEXT	I	TEAS EXTENSION RECEIVED	017
04/29/2008	EX2G	S	EXTENSION 2 GRANTED	016
04/18/2008	EXT2	S	EXTENSION 2 FILED	015
04/18/2008	EEXT	I	TEAS EXTENSION RECEIVED	014
02/07/2008	TCCA	I	TEAS CHANGE OF CORRESPONDENCE RECEIVED	013
10/16/2007	EX1G	S	EXTENSION 1 GRANTED	012
10/16/2007	EXT1	S	EXTENSION 1 FILED	011
10/16/2007	EEXT	I	TEAS EXTENSION RECEIVED	010
05/08/2007	NOAM	O	NOA MAILED - SOU REQUIRED FROM APPLICANT	009
02/13/2007	PUBO	A	PUBLISHED FOR OPPOSITION	008
01/24/2007	NPUB	O	NOTICE OF PUBLICATION	007
12/15/2006	PREV	O	LAW OFFICE PUBLICATION REVIEW COMPLETED	006
12/15/2006	ALIE	A	ASSIGNED TO LIE	005
11/30/2006	CNSA	P	APPROVED FOR PUB - PRINCIPAL REGISTER	004
11/29/2006	DOCK	D	ASSIGNED TO EXAMINER	003
07/04/2006	MPMK	O	NOTICE OF PSEUDO MARK MAILED	002
07/03/2006	NWAP	I	NEW APPLICATION ENTERED IN TRAM	001

### CURRENT CORRESPONDENCE INFORMATION

ATTORNEY	Thomas H. Van Hoozer
CORRESPONDENCE ADDRESS	Thomas H. Van Hoozer HOVEY WILLIAMS LLP Suite 1000 10801 Mastin Blvd. Overland Park KS 66210
DOMESTIC REPRESENTATIVE	Thomas H. Van Hoozer

### PRIOR OWNER INFORMATION

PARTY TYPE	10-ORIGINAL APPLICANT
NAME	AFGRITECH LTD.
ADDRESS	Old Croft, Stanwix Carlisle, CA3 9BA
ENTITY	03-CORPORATION
CITIZENSHIP	United Kingdom



# AMINO GREEN

## SOU Extension Request (15 U.S.C. Section 1051(d))

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	78917849
LAW OFFICE ASSIGNED	LAW OFFICE 106
MARK SECTION	
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	AMINOGREEN
OWNER SECTION (no change)	
GOODS AND/OR SERVICES SECTION	
INTERNATIONAL CLASS	005
CURRENT IDENTIFICATION	animal feed supplement
GOODS OR SERVICES	KEEP ALL LISTED
INTERNATIONAL CLASS	031
CURRENT IDENTIFICATION	livestock feed
GOODS OR SERVICES	KEEP ALL LISTED
EXTENSION SECTION	
EXTENSION NUMBER	4
ONGOING EFFORT	product or service research development
ALLOWANCE MAIL DATE	05/08/2007
STATEMENT OF USE	NO
PAYMENT SECTION	
NUMBER OF CLASSES	2
SUBTOTAL AMOUNT	300
TOTAL AMOUNT	300

**SIGNATURE SECTION**

<b>SIGNATORY FILE NAME(S)</b>	<u>\\TICRS\EXPORT6\IMAGEOUT6</u> <u>\789\178\78917849\xml1\ES U0002.JPG</u>
<b>SIGNATORY'S NAME</b>	Christopher N.C. Holmes
<b>SIGNATORY'S POSITION</b>	Chief Executive Officer
<b>FILING INFORMATION</b>	
<b>SUBMIT DATE</b>	Tue Apr 21 13:00:09 EDT 2009
<b>TEAS STAMP</b>	USPTO/ESU-70.43.171.130-2 0090421130009745264-78917 849-4409230487d5bc8af2bf8 2914bd41cb315-DA-7929-200 90421123040850616

**SOU Extension Request  
(15 U.S.C. Section 1051(d))**

To the Commissioner for Trademarks:

### Declaration

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements may jeopardize the validity of the form or any resulting registration, declares that he is properly authorized to execute this form on behalf of the applicant; he believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the form is being filed under 15 U.S.C. Section 1126(d) or (e), he believes applicant to be entitled to use such mark in commerce; to the best of his knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his own knowledge are true; and that all statements made on information and belief are believed to be true.

Signature Section:

Signature: As [Signature]  
Signatory's Name: Christopher N.C. Holmes  
Signatory's Position: Chief Executive Officer

Date Signed: April 21, 2009

### Declaration

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements may jeopardize the validity of the form or any resulting registration, declares that he is properly authorized to execute this form on behalf of the applicant; he believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the form is being filed under 15 U.S.C. Section 1126(d) or (e), he believes applicant to be entitled to use such mark in commerce; to the best of his knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his own knowledge are true; and that all statements made on information and belief are believed to be true.

Signature Section:

Signature: *As [Signature]*

Signatory's Name: Christopher N.C. Holmes

Signatory's Position: Chief Executive Officer

Date Signed: *April 21, 2009*

Side - 1



**NOTICE OF APPROVAL  
OF EXTENSION REQUEST  
MAILING DATE: Oct 21, 2008**

A Notice of Allowance issued for the trademark application identified below on May 8, 2007 . The THIRD request for extension of time to file a Statement of Use has been approved. Applicant must continue to file extension requests every 6 months calculated from the date the Notice of Allowance was issued until a Statement of Use is filed. Please note that a Statement of Use cannot be filed more than 36 months from the issuance date of the Notice of Allowance.

For further information, visit our website at: <http://www.uspto.gov> or call the Trademark Assistance Center at 1-800-786-9199.

**SERIAL NUMBER: 78917849**  
**MARK: AMINOGREEN**  
**OWNER: AFGRITECH LTD.**

Side - 2

UNITED STATES PATENT AND TRADEMARK OFFICE  
COMMISSIONER FOR TRADEMARKS  
P.O. BOX 1451  
ALEXANDRIA, VA 22313-1451

FIRST-CLASS  
MAIL  
U.S POSTAGE  
PAID

Thomas H. Van Hoozer  
HOVEY WILLIAMS LLP  
10801 Mastin Blvd.  
Suite 1000  
Overland Park, KS 66210

**Trademark Snap Shot ITU Unit Action**  
(Table presents the data on ITU Unit Action)

**OVERVIEW**

SERIAL NUMBER	78917849	FILING DATE	06/27/2006
REG NUMBER	0000000	REG DATE	N/A
REGISTER	PRINCIPAL	MARK TYPE	TRADEMARK
INTL REG #	N/A	INTL REG DATE	N/A
TM ATTORNEY	HETZEL, DANNEAN	L.O. ASSIGNED	106

**PUB INFORMATION**

RUN DATE	10/21/2008
PUB DATE	02/13/2007
STATUS	732-THIRD EXTENSION - GRANTED
STATUS DATE	10/17/2008
LITERAL MARK ELEMENT	AMINOGREEN

DATE ABANDONED	N/A	DATE CANCELLED	N/A
SECTION 2F	NO	SECTION 2F IN PART	NO
SECTION 8	NO	SECTION 8 IN PART	NO
SECTION 15	NO	REPUB 12C	N/A
RENEWAL FILED	NO	RENEWAL DATE	N/A
DATE AMEND REG	N/A		

**FILING BASIS**

FILED BASIS		CURRENT BASIS		AMENDED BASIS	
1 (a)	NO	1 (a)	NO	1 (a)	NO
1 (b)	YES	1 (b)	YES	1 (b)	NO
44D	NO	44D	NO	44D	NO
44E	NO	44E	NO	44E	NO
66A	NO	66A	NO		
NO BASIS	NO	NO BASIS	NO		

**MARK DATA**

STANDARD CHARACTER MARK	YES
LITERAL MARK ELEMENT	AMINOGREEN



MARK DRAWING CODE	4-STANDARD CHARACTER MARK
COLOR DRAWING FLAG	NO

### CURRENT OWNER INFORMATION

PARTY TYPE	20-OWNER AT PUBLICATION
NAME	AFGRITECH LTD.
ADDRESS	Old Croft, Stanwix Carlisle, CA3 9BA
ENTITY	03-CORPORATION
CITIZENSHIP	United Kingdom

### GOODS AND SERVICES

INTERNATIONAL CLASS	005
DESCRIPTION TEXT	animal feed supplement
INTERNATIONAL CLASS	031
DESCRIPTION TEXT	livestock feed

### GOODS AND SERVICES CLASSIFICATION

INTERNATIONAL CLASS	005	FIRST USE DATE	NONE	FIRST USE IN COMMERCE DATE	NONE	CLASS STATUS	6-ACTIVE
INTERNATIONAL CLASS	031	FIRST USE DATE	NONE	FIRST USE IN COMMERCE DATE	NONE	CLASS STATUS	6-ACTIVE

### MISCELLANEOUS INFORMATION/STATEMENTS

CHANGE IN REGISTRATION	NO
PSEUDO MARK	AMINO GREEN

### PROSECUTION HISTORY

DATE	ENT CD	ENT TYPE	DESCRIPTION	ENT NUM
10/17/2008	EX3G	S	EXTENSION 3 GRANTED	019
10/17/2008	EXT3	S	EXTENSION 3 FILED	018
10/17/2008	EEXT	I	TEAS EXTENSION RECEIVED	017
04/29/2008	EX2G	S	EXTENSION 2 GRANTED	016

04/18/2008	EXT2	S	EXTENSION 2 FILED	015
04/18/2008	EEXT	I	TEAS EXTENSION RECEIVED	014
02/07/2008	TCCA	I	TEAS CHANGE OF CORRESPONDENCE RECEIVED	013
10/16/2007	EX1G	S	EXTENSION 1 GRANTED	012
10/16/2007	EXT1	S	EXTENSION 1 FILED	011
10/16/2007	EEXT	I	TEAS EXTENSION RECEIVED	010
05/08/2007	NOAM	O	NOTICE OF ALLOWANCE-MAILED	009
02/13/2007	PUBO	A	PUBLISHED FOR OPPOSITION	008
01/24/2007	NPUB	O	NOTICE OF PUBLICATION	007
12/15/2006	PREV	O	LAW OFFICE PUBLICATION REVIEW COMPLETED	006
12/15/2006	ALIE	A	ASSIGNED TO LIE	005
11/30/2006	CNSA	P	APPROVED FOR PUB - PRINCIPAL REGISTER	004
11/29/2006	DOCK	D	ASSIGNED TO EXAMINER	003
07/04/2006	MPMK	O	NOTICE OF PSEUDO MARK MAILED	002
07/03/2006	NWAP	I	NEW APPLICATION ENTERED IN TRAM	001

#### CURRENT CORRESPONDENCE INFORMATION

ATTORNEY	Thomas H. Van Hoozer
CORRESPONDENCE ADDRESS	Thomas H. Van Hoozer HOVEY WILLIAMS LLP Suite 1000 10801 Mastin Blvd. Overland Park KS 66210
DOMESTIC REPRESENTATIVE	Thomas H. Van Hoozer

#### PRIOR OWNER INFORMATION

PARTY TYPE	10-ORIGINAL APPLICANT
NAME	AFGRITECH LTD.
ADDRESS	Old Croft, Stanwix Carlisle, CA3 9BA
ENTITY	03-CORPORATION
CITIZENSHIP	United Kingdom

# AMINO GREEN

## SOU Extension Request (15 U.S.C. Section 1051(d))

The table below presents the data as entered.

Input Field	Entered
<b>SERIAL NUMBER</b>	78917849
<b>LAW OFFICE ASSIGNED</b>	LAW OFFICE 106
<b>MARK SECTION</b>	
<b>STANDARD CHARACTERS</b>	YES
<b>USPTO-GENERATED IMAGE</b>	YES
<b>LITERAL ELEMENT</b>	AMINOGREEN
<b>OWNER SECTION (no change)</b>	
<b>GOODS AND/OR SERVICES SECTION</b>	
<b>INTERNATIONAL CLASS</b>	005
<b>CURRENT IDENTIFICATION</b>	animal feed supplement
<b>GOODS OR SERVICES</b>	KEEP ALL LISTED
<b>INTERNATIONAL CLASS</b>	031
<b>CURRENT IDENTIFICATION</b>	livestock feed
<b>GOODS OR SERVICES</b>	KEEP ALL LISTED
<b>EXTENSION SECTION</b>	
<b>EXTENSION NUMBER</b>	3
<b>ONGOING EFFORT</b>	product or service research development

<b>ALLOWANCE MAIL DATE</b>	05/08/2007
<b>STATEMENT OF USE</b>	NO
<b>PAYMENT SECTION</b>	
<b>NUMBER OF CLASSES</b>	2
<b>SUBTOTAL AMOUNT</b>	300
<b>TOTAL AMOUNT</b>	300
<b>SIGNATURE SECTION</b>	
<b>ORIGINAL PDF FILE</b>	<u>hsign_7043171130-140524021 . Signed_RET.pdf</u>
<b>CONVERTED PDF FILE(S) (1 page)</b>	<u>\\TICRS\EXPORT4\IMAGEOUT4\789\178\78917849\xml2\ESU0002.JPG</u>
<b>SIGNATORY'S NAME</b>	Christopher N.C. Holmes
<b>SIGNATORY'S POSITION</b>	Chief Executive Officer
<b>FILING INFORMATION</b>	
<b>SUBMIT DATE</b>	Fri Oct 17 14:07:11 EDT 2008
<b>TEAS STAMP</b>	USPTO/ESU-70.43.171.130-2 0081017140711812046-78917 849-4003157b25c3666e82689 db79696a27199-DA-7977-200 81017140524021238

---

**SOU Extension Request  
(15 U.S.C. Section 1051(d))**

To the Commissioner for Trademarks:

17. OCT. 2008 14:36  
From: HUYEY WILLIAMS

CARRS MILLING INDUST  
913 647 9057

10/13/2008 15:21 NO. 840 P. 2/003

**SOU Extension Request**  
(15 U.S.C. Section 1051(d))

Handwritten Signature  
To the Commissioner for Trademarks:

MARK AMINOGREEN  
SERIAL NUMBER: 78917849

The applicant, AFGRITECH LTD., having an address of Old Croft, Stanwix, Carlisle, United Kingdom CA3 9BA, requests a six-month extension of time to file the Statement of Use under 37 C.F.R. Section 2.89 in this application. The Notice of Allowance mailing date was 05/08/2007.

For International Class 005:  
Current identification: animal feed supplement

The applicant has a continued bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with all of the goods and/or services listed in the Notice of Allowance or as subsequently modified for this specific class.

For International Class 031:  
Current identification: livestock feed


The applicant has a continued bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with all of the goods and/or services listed in the Notice of Allowance or as subsequently modified for this specific class.

This is the third extension request. The applicant has made the following ongoing efforts to use the mark in commerce on or in connection with each of those goods and/or services covered by the extension request: product or service research development

**Declaration**

The undersigned being hereby warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements and the like may jeopardize the validity of this document, declares that he is properly authorized to execute this document on behalf of the Owner; and all statements made of his own knowledge are true and that all statements made on information and belief are believed to be true.

Signature Section:

Signature:   
Signatory's Name: Christopher N.C. Holmes  
Signatory's Position: Chief Executive Officer

Date Signed: 17.10.2008

17. OCT. 2008 14:36  
From: HUYEY WILLIAMS

CARRS MILLING INDUST  
913 647 9057

10/13/2008 15:21 NO. 840398 F.P. 2/003

**SOU Extension Request**  
(15 U.S.C. Section 1051(d))

Handwritten Signature  
To the Commissioner for Trademarks:

MARK AMINOGREEN  
SERIAL NUMBER: 78917849

The applicant, AFGRITECH LTD., having an address of Old Croft, Stanwix, Carlisle, United Kingdom CA3 9BA, requests a six-month extension of time to file the Statement of Use under 37 C.F.R. Section 2.89 in this application. The Notice of Allowance mailing date was 05/08/2007.

For International Class 005:  
Current identification: animal feed supplement

The applicant has a continued bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with all of the goods and/or services listed in the Notice of Allowance or as subsequently modified for this specific class.

For International Class 031:  
Current identification: livestock feed


The applicant has a continued bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with all of the goods and/or services listed in the Notice of Allowance or as subsequently modified for this specific class.

This is the third extension request. The applicant has made the following ongoing efforts to use the mark in commerce on or in connection with each of those goods and/or services covered by the extension request: product or service research development

**Declaration**

The undersigned being hereby warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements and the like may jeopardize the validity of this document, declares that he is properly authorized to execute this document on behalf of the Owner; and all statements made of his own knowledge are true and that all statements made on information and belief are believed to be true.

Signature Section:

Signature:   
Signatory's Name: Christopher N.C. Holmes  
Signatory's Position: Chief Executive Officer

Date Signed: 17.10.2008





UNITED STATES PATENT AND TRADEMARK OFFICE

---

Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451  
[www.uspto.gov](http://www.uspto.gov)

**NOTICE OF APPROVAL OF EXTENSION REQUEST**

Apr 30, 2008

TM106

ATTORNEY  
REFERENCE NUMBER:

Thomas H. Van Hoozer  
HOVEY WILLIAMS LLP  
Suite 1000  
10801 Mastin Blvd.  
Overland Park KS 66210

37382; 4399.

---

**SERIAL NUMBER:** 78/917849

**MARK:** AMINOGREEN

**OWNER:** AFGRITECH LTD.

**EXTENSION REQUEST NUMBER:** 2      **NOTICE OF ALLOWANCE DATE:** May 8, 2007

---

A Notice of Allowance was issued on May 8, 2007 for the trademark application identified above. The **SECOND** request for Extension of Time to File a Statement of Use has been approved. Applicant must continue to file extension requests every 6 months calculated from the date the Notice of Allowance was issued until a Statement of Use is filed. Please note that a Statement of Use cannot be filed more than 36 months from the issuance date of the Notice of Allowance.

For further information please check the USPTO web site at [www.uspto.gov](http://www.uspto.gov) or call the Trademark Assistance Center at 1-800-786-9199.

**Trademark Snap Shot ITU Unit Action**  
(Table presents the data on ITU Unit Action)

**OVERVIEW**

SERIAL NUMBER	78917849	FILING DATE	06/27/2006
REG NUMBER	0000000	REG DATE	N/A
REGISTER	PRINCIPAL	MARK TYPE	TRADEMARK
INTL REG #	N/A	INTL REG DATE	N/A
TM ATTORNEY	HETZEL, DANNEAN	L.O. ASSIGNED	106

**PUB INFORMATION**

RUN DATE	04/30/2008
PUB DATE	02/13/2007
STATUS	731-SECOND EXTENSION - GRANTED
STATUS DATE	04/29/2008
LITERAL MARK ELEMENT	AMINOGREEN

DATE ABANDONED	N/A	DATE CANCELLED	N/A
SECTION 2F	NO	SECTION 2F IN PART	NO
SECTION 8	NO	SECTION 8 IN PART	NO
SECTION 15	NO	REPUB 12C	N/A
RENEWAL FILED	NO	RENEWAL DATE	N/A
DATE AMEND REG	N/A		

**FILING BASIS**

FILED BASIS		CURRENT BASIS		AMENDED BASIS	
1 (a)	NO	1 (a)	NO	1 (a)	NO
1 (b)	YES	1 (b)	YES	1 (b)	NO
44D	NO	44D	NO	44D	NO
44E	NO	44E	NO	44E	NO
66A	NO	66A	NO		
NO BASIS	NO	NO BASIS	NO		

**MARK DATA**

STANDARD CHARACTER MARK	YES
LITERAL MARK ELEMENT	AMINOGREEN

MARK DRAWING CODE	4-STANDARD CHARACTER MARK
COLOR DRAWING FLAG	NO

### CURRENT OWNER INFORMATION

PARTY TYPE	20-OWNER AT PUBLICATION
NAME	AFGRITECH LTD.
ADDRESS	Old Croft, Stanwix Carlisle, CA3 9BA
ENTITY	03-CORPORATION
CITIZENSHIP	United Kingdom

### GOODS AND SERVICES

INTERNATIONAL CLASS	005
DESCRIPTION TEXT	animal feed supplement
INTERNATIONAL CLASS	031
DESCRIPTION TEXT	livestock feed

### GOODS AND SERVICES CLASSIFICATION

INTERNATIONAL CLASS	005	FIRST USE DATE	NONE	FIRST USE IN COMMERCE DATE	NONE	CLASS STATUS	6-ACTIVE
INTERNATIONAL CLASS	031	FIRST USE DATE	NONE	FIRST USE IN COMMERCE DATE	NONE	CLASS STATUS	6-ACTIVE

### MISCELLANEOUS INFORMATION/STATEMENTS

CHANGE IN REGISTRATION	NO
PSEUDO MARK	AMINO GREEN

### PROSECUTION HISTORY

DATE	ENT CD	ENT TYPE	DESCRIPTION	ENT NUM
04/29/2008	EX2G	S	EXTENSION 2 GRANTED	016
04/18/2008	EXT2	S	EXTENSION 2 FILED	015
04/18/2008	EEXT	I	TEAS EXTENSION RECEIVED	014
02/07/2008	TCCA	I	TEAS CHANGE OF CORRESPONDENCE RECEIVED	013

10/16/2007	EX1G	S	EXTENSION 1 GRANTED	012
10/16/2007	EXT1	S	EXTENSION 1 FILED	011
10/16/2007	EEXT	I	TEAS EXTENSION RECEIVED	010
05/08/2007	NOAM	O	NOTICE OF ALLOWANCE-MAILED	009
02/13/2007	PUBO	A	PUBLISHED FOR OPPOSITION	008
01/24/2007	NPUB	O	NOTICE OF PUBLICATION	007
12/15/2006	PREV	O	LAW OFFICE PUBLICATION REVIEW COMPLETED	006
12/15/2006	ALIE	A	ASSIGNED TO LIE	005
11/30/2006	CNSA	P	APPROVED FOR PUB - PRINCIPAL REGISTER	004
11/29/2006	DOCK	D	ASSIGNED TO EXAMINER	003
07/04/2006	MPMK	O	NOTICE OF PSEUDO MARK MAILED	002
07/03/2006	NWAP	I	NEW APPLICATION ENTERED IN TRAM	001

### CURRENT CORRESPONDENCE INFORMATION

ATTORNEY	Thomas H. Van Hoozer
CORRESPONDENCE ADDRESS	Thomas H. Van Hoozer HOVEY WILLIAMS LLP Suite 1000 10801 Mastin Blvd. Overland Park KS 66210
DOMESTIC REPRESENTATIVE	Thomas H. Van Hoozer

### PRIOR OWNER INFORMATION

PARTY TYPE	10-ORIGINAL APPLICANT
NAME	AFGRITECH LTD.
ADDRESS	Old Croft, Stanwix Carlisle, CA3 9BA
ENTITY	03-CORPORATION
CITIZENSHIP	United Kingdom

# AMINO GREEN

## SOU Extension Request (15 U.S.C. Section 1051(d))

The table below presents the data as entered.

Input Field	Entered
<b>SERIAL NUMBER</b>	78917849
<b>LAW OFFICE ASSIGNED</b>	LAW OFFICE 106
<b>MARK SECTION</b>	
<b>STANDARD CHARACTERS</b>	YES
<b>USPTO-GENERATED IMAGE</b>	YES
<b>LITERAL ELEMENT</b>	AMINO GREEN
<b>OWNER SECTION (no change)</b>	
<b>ATTORNEY SECTION (current)</b>	
<b>NAME</b>	Thomas H. Van Hoozer
<b>FIRM NAME</b>	HOVEY WILLIAMS LLP
<b>INTERNAL ADDRESS</b>	10801 Mastin Blvd.
<b>STREET</b>	Suite 1000
<b>CITY</b>	Overland Park
<b>STATE</b>	Kansas
<b>POSTAL CODE</b>	66210
<b>COUNTRY</b>	United States
<b>PHONE</b>	913-647-9050
<b>FAX</b>	913-647-9057
<b>ATTORNEY DOCKET NUMBER</b>	37382; 4399.
<b>ATTORNEY SECTION (proposed)</b>	
<b>NAME</b>	Thomas H. Van Hoozer
<b>FIRM NAME</b>	HOVEY WILLIAMS LLP
<b>INTERNAL ADDRESS</b>	Suite 1000

<b>STREET</b>	10801 Mastin Blvd.
<b>CITY</b>	Overland Park
<b>STATE</b>	Kansas
<b>POSTAL CODE</b>	66210
<b>COUNTRY</b>	United States
<b>PHONE</b>	913-647-9050
<b>FAX</b>	913-647-9057
<b>ATTORNEY DOCKET NUMBER</b>	37382; 4399.002
<b>OTHER APPOINTED ATTORNEY</b>	Stephen D. Timmons, John M. Collins, Thomas B. Luebbering, Andrew G. Colombo, Scott R. Brown, Tracy L. Bornman, Michael B. Hurd, Michael M. Elbein, Joan Optican Herman, Kameron D. Kelly, Gregory J. Skoch, Jennifer C. Bailey, Cheryl L. Burbach, Matthew P. Harlow, Randall W. Schwartz, Christopher Logan, Brandon Warner, Crissa A. Cook, and Matthew Walters
<b>GOODS AND/OR SERVICES SECTION</b>	
<b>INTERNATIONAL CLASS</b>	031
<b>CURRENT IDENTIFICATION</b>	livestock feed
<b>GOODS OR SERVICES</b>	KEEP ALL LISTED
<b>INTERNATIONAL CLASS</b>	005
<b>CURRENT IDENTIFICATION</b>	animal feed supplement
<b>GOODS OR SERVICES</b>	KEEP ALL LISTED
<b>EXTENSION SECTION</b>	
<b>EXTENSION NUMBER</b>	2
<b>ONGOING EFFORT</b>	product research and development and efforts to obtain manufacturing facilities
<b>ALLOWANCE MAIL DATE</b>	05/08/2007
<b>STATEMENT OF USE</b>	NO
<b>PAYMENT SECTION</b>	
<b>NUMBER OF CLASSES</b>	2
<b>SUBTOTAL AMOUNT</b>	300
<b>TOTAL AMOUNT</b>	300
<b>SIGNATURE SECTION</b>	

<b>SIGNATORY FILE NAME(S)</b>	<u>\\TICRS\EXPORT\IMAGEOUT\789\178\78917849\xml4\ESU0 002.JPG</u>
<b>SIGNATORY'S NAME</b>	Christopher N.C. Holmes
<b>SIGNATORY'S POSITION</b>	Chief Executive Officer
<b>FILING INFORMATION</b>	
<b>SUBMIT DATE</b>	Fri Apr 18 18:01:28 EDT 2008
<b>TEAS STAMP</b>	USPTO/ESU-70.43.171.130-2 0080418180128885925-78917 849-4005e1c24f5dddb8141b2 95f321c52ed4d7-DA-4132-20 080418161804073620

---



**SOU Extension Request  
(15 U.S.C. Section 1051(d))**

To the Commissioner for Trademarks:

**SOU Extension Request  
(15 U.S.C. Section 1051(d))**

Handwritten Signature  
To the Commissioner for Trademarks:

MARK: AMINOGREEN  
SERIAL NUMBER: 75917849

The applicant, AFGRITECH LTD., having an address of Old Croft, Stanwix, Carlisle, United Kingdom CA3 9BA, requests a six-month extension of time to file the Statement of Use under 37 C.F.R. Section 2.89 in this application. The Notice of Allowance mailing date was 05/08/2007.

For International Class 031:  
Current identification: livestock feed

The applicant has a continued bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with all of the goods and/or services listed in the Notice of Allowance, or as subsequently modified.

For International Class 005:  
Current identification: animal feed supplement

The applicant has a continued bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with all of the goods and/or services listed in the Notice of Allowance, or as subsequently modified.


This is the second extension request. The applicant has made the following ongoing efforts to use the mark in commerce on or in connection with each of those goods and/or services covered by the extension request: product research and development and efforts to obtain manufacturing facilities

The applicant hereby appoints Thomas H. Van Hoozer and Stephen D. Timmons, John M. Collins, Thomas B. Luebbering, Andrew G. Colombo, Scott R. Brown, Tracy L. Bornman, Michael B. Hurd, Michael M. Elbein, Joan Optican Herman, Kameron D. Kelly, Gregory J. Skoch, Jennifer C. Bailey, Cheryl L. Burbach, Matthew P. Harlow, Randall W. Schwartz, Christopher Logan, Brandon Warner, Crissa A. Cook, and Matthew Walters of HOVEY WILLIAMS LLP, 10801 Mastin Blvd., Suite 1000, Overland Park, Kansas United States 66210 to submit this Request for Extension of Time to File a Statement of Use on behalf of the applicant. The attorney docket/reference number is 37382; 4399.002.

**Declaration**

The undersigned being hereby warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements and the like may jeopardize the validity of this document, declares that he is properly authorized to execute this document on behalf of the Owner; and all statements made of his own knowledge are true and that all statements made on information and belief are believed to be true.

Signature Section:

Signature:   
Signatory's Name: Christopher N.C. Holmes  
Signatory's Position: Chief Executive Officer

Date Signed: 18th April 2008

**TEAS ROUTING SHEET**

**To: INTENT TO USE UNIT**

**Work Loc: INTENT TO USE SECTION**

**Doc Type: Extension Request for SOU (ESU)**



**Serial Number: 78917849**



**Mark: AMINOGREEN**

**Mail Date: 2008/04/18**



**Examiner Number: 81840**



**Examiner Name:  
HETZEL, DANNEAN**

**LIE Number: 78145**



**LIE Name:  
RIVERA, ANTJUAN M**

**L.O. Assigned: LAW OFFICE 106**

**Special Instruction(s):**

<u>Transaction</u>	<u>Fee Code</u>	<u>Transaction Date</u>	<u>Fee per Class</u>	<u>Number of Classes</u>	<u>Total Fee</u>
Extension Request for SOU	7004	20080418	\$150	2	\$300

**SOU Extension Request  
(15 U.S.C. Section 1051(d))**

Handwritten Signature  
To the Commissioner for Trademarks:

MARK: AMINOGREEN  
SERIAL NUMBER: 75917849

The applicant, AFGRITECH LTD., having an address of Old Croft, Stanwix, Carlisle, United Kingdom CA3 9BA, requests a six-month extension of time to file the Statement of Use under 37 C.F.R. Section 2.89 in this application. The Notice of Allowance mailing date was 05/08/2007.

For International Class 031:  
Current identification: livestock feed

The applicant has a continued bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with all of the goods and/or services listed in the Notice of Allowance, or as subsequently modified.

For International Class 005:  
Current identification: animal feed supplement

The applicant has a continued bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with all of the goods and/or services listed in the Notice of Allowance, or as subsequently modified.

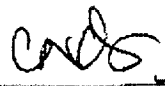
This is the second extension request. The applicant has made the following ongoing efforts to use the mark in commerce on or in connection with each of those goods and/or services covered by the extension request: product research and development and efforts to obtain manufacturing facilities

The applicant hereby appoints Thomas H. Van Hoozer and Stephen D. Timmons, John M. Collins, Thomas B. Luebbering, Andrew G. Colombo, Scott R. Brown, Tracy L. Bornman, Michael B. Hurd, Michael M. Elbein, Joan Optican Herman, Kameron D. Kelly, Gregory J. Skoch, Jonnifer C. Bailey, Cheryl L. Burbach, Matthew P. Harlow, Randall W. Schwartz, Christopher Logan, Brandon Warner, Crissa A. Cook, and Matthew Walters of HOVEY WILLIAMS LLP, 10801 Mastin Blvd., Suite 1000, Overland Park, Kansas United States 66210 to submit this Request for Extension of Time to File a Statement of Use on behalf of the applicant. The attorney docket/reference number is 37382; 4399.002.

**Declaration**

The undersigned being hereby warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements and the like may jeopardize the validity of this document, declares that he is properly authorized to execute this document on behalf of the Owner; and all statements made of his own knowledge are true and that all statements made on information and belief are believed to be true.

Signature Section:

Signature:   
Signatory's Name: Christopher N.C. Holmes  
Signatory's Position: Chief Executive Officer

Date Signed:

18th April 2008

## Change Of Correspondence Address

---

The table below presents the data as entered.

Input Field	Entered
<b>SERIAL NUMBER</b>	78917849
<b>LAW OFFICE ASSIGNED</b>	LAW OFFICE 106
<b>MARK SECTION</b>	
<b>MARK</b>	AMINOGREEN
<b>CORRESPONDENCE SECTION (current)</b>	
<b>ORIGINAL ADDRESS</b>	Thomas H. Van Hoozer HOVEY WILLIAMS LLP 2405 GRAND BLVD STE 400 KANSAS CITY Missouri 64108-2519 United States 816-474-9057 816-474-9050
<b>NEW CORRESPONDENCE ADDRESS</b>	
<b>NEW ADDRESS</b>	Thomas H. Van Hoozer HOVEY WILLIAMS LLP Suite 1000 10801 Mastin Blvd. Overland Park Kansas United States 66210 913-647-9050 913-647-9057
<b>SIGNATURE SECTION</b>	
<b>SIGNATURE</b>	/Thomas H. Van Hoozer/
<b>SIGNATORY NAME</b>	Thomas H. Van Hoozer
<b>SIGNATORY DATE</b>	02/07/2008
<b>SIGNATORY POSITION</b>	Attorney of record
<b>FILING INFORMATION SECTION</b>	
<b>SUBMIT DATE</b>	Thu Feb 07 13:16:33 EST 2008
	USPTO/CCA-70.43.171.130-2

**TEAS STAMP**

0080207131633458398-78917  
853-400b86f5fdd96c493e136  
9fe073b9e09fa9-N/A-N/A-20  
080207131359024315



UNITED STATES PATENT AND TRADEMARK OFFICE

---

Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451  
[www.uspto.gov](http://www.uspto.gov)

**NOTICE OF APPROVAL OF EXTENSION REQUEST**

Oct 18, 2007

TM106

ATTORNEY

REFERENCE NUMBER:

Thomas H. Van Hoozer  
HOVEY WILLIAMS LLP  
2405 GRAND BLVD STE 400  
KANSAS CITY MO 64108-2519

37382; 4399.

---

**SERIAL NUMBER:** 78/917849

**MARK:** AMINOGREEN

**OWNER:** AFGRITECH LTD.

**EXTENSION REQUEST NUMBER:** 1      **NOTICE OF ALLOWANCE DATE:** May 8, 2007

---

A Notice of Allowance was issued on May 8, 2007 for the trademark application identified above. The FIRST request for Extension of Time to File a Statement of Use has been approved. Applicant must continue to file extension requests every 6 months calculated from the date the Notice of Allowance was issued until a Statement of Use is filed. Please note that a Statement of Use cannot be filed more than 36 months from the issuance date of the Notice of Allowance.

For further information please check the USPTO web site at [www.uspto.gov](http://www.uspto.gov) or call the Trademark Assistance Center at 1-800-786-9199.

**Trademark Snap Shot ITU Unit Action**  
(Table presents the data on ITU Unit Action)

**OVERVIEW**

SERIAL NUMBER	78917849	FILING DATE	06/27/2006
REG NUMBER	0000000	REG DATE	N/A
REGISTER	PRINCIPAL	MARK TYPE	TRADEMARK
INTL REG #	N/A	INTL REG DATE	N/A
TM ATTORNEY	HETZEL, DANNEAN	L.O. ASSIGNED	106

**PUB INFORMATION**

RUN DATE	10/18/2007
PUB DATE	02/13/2007
STATUS	730-FIRST EXTENSION - GRANTED
STATUS DATE	10/16/2007
LITERAL MARK ELEMENT	AMINOGREEN

DATE ABANDONED	N/A	DATE CANCELLED	N/A
SECTION 2F	NO	SECTION 2F IN PART	NO
SECTION 8	NO	SECTION 8 IN PART	NO
SECTION 15	NO	REPUB 12C	N/A
RENEWAL FILED	NO	RENEWAL DATE	N/A
DATE AMEND REG	N/A		

**FILING BASIS**

FILED BASIS		CURRENT BASIS		AMENDED BASIS	
1 (a)	NO	1 (a)	NO	1 (a)	NO
1 (b)	YES	1 (b)	YES	1 (b)	NO
44D	NO	44D	NO	44D	NO
44E	NO	44E	NO	44E	NO
66A	NO	66A	NO		
NO BASIS	NO	NO BASIS	NO		

**MARK DATA**

STANDARD CHARACTER MARK	YES
LITERAL MARK ELEMENT	AMINOGREEN



MARK DRAWING CODE	4-STANDARD CHARACTER MARK
COLOR DRAWING FLAG	NO

### CURRENT OWNER INFORMATION

PARTY TYPE	20-OWNER AT PUBLICATION
NAME	AFGRITECH LTD.
ADDRESS	Old Croft, Stanwix Carlisle, CA3 9BA
ENTITY	03-CORPORATION
CITIZENSHIP	United Kingdom

### GOODS AND SERVICES

INTERNATIONAL CLASS	005
DESCRIPTION TEXT	animal feed supplement
INTERNATIONAL CLASS	031
DESCRIPTION TEXT	livestock feed

### GOODS AND SERVICES CLASSIFICATION

INTERNATIONAL CLASS	005	FIRST USE DATE	NONE	FIRST USE IN COMMERCE DATE	NONE	CLASS STATUS	6-ACTIVE
INTERNATIONAL CLASS	031	FIRST USE DATE	NONE	FIRST USE IN COMMERCE DATE	NONE	CLASS STATUS	6-ACTIVE

### MISCELLANEOUS INFORMATION/STATEMENTS

CHANGE IN REGISTRATION	NO
PSEUDO MARK	AMINO GREEN

### PROSECUTION HISTORY

DATE	ENT CD	ENT TYPE	DESCRIPTION	ENT NUM
10/16/2007	EX1G	S	EXTENSION 1 GRANTED	012
10/16/2007	EXT1	S	EXTENSION 1 FILED	011
10/16/2007	EEXT	I	TEAS EXTENSION RECEIVED	010
05/08/2007	NOAM	O	NOTICE OF ALLOWANCE-MAILED	009

02/13/2007	PUBO	A	PUBLISHED FOR OPPOSITION	008
01/24/2007	NPUB	O	NOTICE OF PUBLICATION	007
12/15/2006	PREV	O	LAW OFFICE PUBLICATION REVIEW COMPLETED	006
12/15/2006	ALIE	A	ASSIGNED TO LIE	005
11/30/2006	CNSA	P	APPROVED FOR PUB - PRINCIPAL REGISTER	004
11/29/2006	DOCK	D	ASSIGNED TO EXAMINER	003
07/04/2006	MPMK	O	NOTICE OF PSEUDO MARK MAILED	002
07/03/2006	NWAP	I	NEW APPLICATION ENTERED IN TRAM	001

### CURRENT CORRESPONDENCE INFORMATION

ATTORNEY	Thomas H. Van Hoozer
CORRESPONDENCE ADDRESS	Thomas H. Van Hoozer HOVEY WILLIAMS LLP 2405 GRAND BLVD STE 400 KANSAS CITY MO 64108-2519
DOMESTIC REPRESENTATIVE	Thomas H. Van Hoozer

### PRIOR OWNER INFORMATION

PARTY TYPE	10-ORIGINAL APPLICANT
NAME	AFGRITECH LTD.
ADDRESS	Old Croft, Stanwix Carlisle, CA3 9BA
ENTITY	03-CORPORATION
CITIZENSHIP	United Kingdom

# AMINO GREEN

## SOU Extension Request (15 U.S.C. Section 1051(d))

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	78917849
LAW OFFICE ASSIGNED	LAW OFFICE 106
MARK SECTION	
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	AMINOGREEN
OWNER SECTION (no change)	
ATTORNEY SECTION (current)	
NAME	Thomas H. Van Hoozer
FIRM NAME	HOVEY WILLIAMS LLP
STREET	2405 GRAND BLVD STE 400
CITY	KANSAS CITY
STATE	Missouri
POSTAL CODE	64108-2519
COUNTRY	United States
PHONE	816-474-9050
FAX	816-474-9057
ATTORNEY DOCKET NUMBER	37382; 4399.
ATTORNEY SECTION (proposed)	
NAME	Thomas H. Van Hoozer
FIRM NAME	HOVEY WILLIAMS LLP
STREET	2405 GRAND BLVD STE 400
CITY	KANSAS CITY

<b>STATE</b>	Missouri
<b>POSTAL CODE</b>	64108-2519
<b>COUNTRY</b>	United States
<b>PHONE</b>	816-474-9050
<b>FAX</b>	816-474-9057
<b>ATTORNEY DOCKET NUMBER</b>	37382; 4399.002
<b>OTHER APPOINTED ATTORNEY</b>	Stephen D. Timmons, John M. Collins, Thomas B. Luebbering, Andrew G. Colombo, Scott R. Brown, Tracy L. Bornman, Michael B. Hurd, Michael M. Elbein, Joan Optican Herman, Kameron D. Kelly, Gregory J. Skoch, Jennifer C. Bailey, Cheryl L. Burbach, Matthew P. Harlow, Randall W. Schwartz, Christopher Logan, Brandon Warner, Crissa A. Cook, and Matthew Walters
<b>GOODS AND/OR SERVICES SECTION</b>	
<b>INTERNATIONAL CLASS</b>	005
<b>CURRENT IDENTIFICATION</b>	animal feed supplement
<b>GOODS OR SERVICES</b>	KEEP ALL LISTED
<b>INTERNATIONAL CLASS</b>	031
<b>CURRENT IDENTIFICATION</b>	livestock feed
<b>GOODS OR SERVICES</b>	KEEP ALL LISTED
<b>EXTENSION SECTION</b>	
<b>EXTENSION NUMBER</b>	1
<b>ALLOWANCE MAIL DATE</b>	05/08/2007
<b>STATEMENT OF USE</b>	NO
<b>PAYMENT SECTION</b>	
<b>NUMBER OF CLASSES</b>	2
<b>SUBTOTAL AMOUNT</b>	300
<b>TOTAL AMOUNT</b>	300
<b>SIGNATURE SECTION</b>	
<b>SIGNATORY FILE NAME(S)</b>	<u>\\TICRS2\EXPORT14\789\178</u> <u>\78917849\xml1\ESU0002.JP G</u>
<b>SIGNATORY'S NAME</b>	Christopher N.C. Holmes
<b>SIGNATORY'S POSITION</b>	Chief Executive Officer

<b>FILING INFORMATION</b>	
<b>SUBMIT DATE</b>	Tue Oct 16 14:55:55 EDT 2007
<b>TEAS STAMP</b>	USPTO/ESU-70.43.171.130-2 0071016145555270016-78917 849-400ed1b44b11d07c9a5ba f22bddad64ce-DA-185-20071 016143423853135

---

**SOU Extension Request  
(15 U.S.C. Section 1051(d))**

To the Commissioner for Trademarks:

**SOU Extension Request  
(15 U.S.C. Section 1051(d))**

Handwritten Signature  
To the Commissioner for Trademarks:

MARK: AMINOGREEN  
SERIAL NUMBER: 78917849

The applicant, AFGRITECH LTD., having an address of Old Croft, Stanwix, Carlisle, United Kingdom CA3 9BA, requests a six-month extension of time to file the Statement of Use under 37 C.F.R. Section 2.89 in this application. The Notice of Allowance mailing date was 05/08/2007.

For International Class 005:  
Current identification: animal feed supplement

The applicant has a continued bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with all of the goods and/or services listed in the Notice of Allowance, or as subsequently modified.

For International Class 031:  
Current identification: livestock feed

The applicant has a continued bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with all of the goods and/or services listed in the Notice of Allowance, or as subsequently modified.


This is the first extension request.

The applicant hereby appoints Thomas H. Van Hoozer of HOVEY WILLIAMS LLP, 2405 GRAND BLVD STE 400, KANSAS CITY, Missouri United States 64108-2519 to submit this Request for Extension of Time to File a Statement of Use on behalf of the applicant. The attorney docket/reference number is 37382; 4399.002.

**Declaration**

The undersigned being hereby warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements and the like may jeopardize the validity of this document, declares that he/she is properly authorized to execute this document on behalf of the Owner; and all statements made of his/her own knowledge are true and that all statements made on information and belief are believed to be true.

Signature Section:

Signature:   
Signatory's Name: Christopher N.C. Holmes  
Signatory's Position: Chief Executive Officer

Date Signed: 14th October 2007



**SOU Extension Request  
(15 U.S.C. Section 1051(d))**

Handwritten Signature  
To the Commissioner for Trademarks:

MARK: AMINOGREEN  
SERIAL NUMBER: 78917849

The applicant, AFGRITECH LTD., having an address of Old Croft, Stanwix, Carlisle, United Kingdom CA3 9BA, requests a six-month extension of time to file the Statement of Use under 37 C.F.R. Section 2.89 in this application. The Notice of Allowance mailing date was 05/08/2007.

For International Class 005:  
Current identification: animal feed supplement

The applicant has a continued bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with all of the goods and/or services listed in the Notice of Allowance, or as subsequently modified.

For International Class 031:  
Current identification: livestock feed

The applicant has a continued bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with all of the goods and/or services listed in the Notice of Allowance, or as subsequently modified.


This is the first extension request.

The applicant hereby appoints Thomas H. Van Hoozer of HOVEY WILLIAMS LLP, 2405 GRAND BLVD STE 400, KANSAS CITY, Missouri United States 64108-2519 to submit this Request for Extension of Time to File a Statement of Use on behalf of the applicant. The attorney docket/reference number is 37382; 4399.002.

**Declaration**

The undersigned being hereby warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements and the like may jeopardize the validity of this document, declares that he/she is properly authorized to execute this document on behalf of the Owner; and all statements made of his/her own knowledge are true and that all statements made on information and belief are believed to be true.

Signature Section:

Signature:   
Signatory's Name: Christopher N.C. Holmes  
Signatory's Position: Chief Executive Officer

Date Signed: 14th October 2007

U.S. Patent and Trademark Office (USPTO)

NOTICE OF ALLOWANCE

NOTE: If any data on this notice is incorrect, please fax a request for correction to the Intent to Use Unit at 571-273-9550. Please include the serial number of your application on ALL correspondence with the USPTO.

ISSUE DATE: May 8, 2007

THOMAS H. VAN HOOZER  
HOVEY WILLIAMS LLP  
2405 GRAND BLVD STE 400  
KANSAS CITY, MO 64108-2519

ATTORNEY  
REFERENCE NUMBER

37382; 4399.

**\*\* IMPORTANT INFORMATION: 6 MONTH DEADLINE \*\***

You filed the trademark application identified below based upon a bona fide intention to use the mark in commerce. You must use the mark in commerce and file a Statement of Use (a.k.a. Allegation of Use) before the USPTO will register the mark. You have six (6) MONTHS from the ISSUE DATE of this Notice of Allowance (NOA) to file either a Statement of Use, or if you are not yet using the mark in commerce, a Request for Extension of Time to File a Statement of use ("Extension Request"). If you file an extension request, you must continue to file a new request every six months until the Statement of Use is filed. Applicant may file a total of five (5) extension requests. FAILURE TO FILE A REQUIRED DOCUMENT DURING THE APPROPRIATE TIME PERIOD WILL RESULT IN THE ABANDONMENT OF YOUR APPLICATION.

Please note that both the "Statement of Use" and "Extension Request" have many legal requirements including fees. Therefore, we encourage use of the USPTO forms, available online at <http://www.uspto.gov/teas/index.html> (under "File a PRE-registration form"), to avoid the possible omission of important information. Please note that the Trademark Electronic Application System (TEAS) provides line-by-line help instructions for completing the Extension Request or Statement of Use forms online. If you do not have access to the Internet, you may call 1-800-786-9199 to request the printed form(s).

**The following information should be reviewed for accuracy:**

SERIAL NUMBER: 78/917849  
MARK: AMINOGREEN (STANDARD CHARACTER MARK)  
OWNER: AFGRITECH LTD.  
Old Croft, Stanwix  
Carlisle, UNITED KINGDOM CA3 9BA

Section 1(a): NO

Section 1(b): YES

Section 44(e): NO

**GOODS/SERVICES BY INTERNATIONAL CLASS**

005 - animal feed supplement -- FIRST USE DATE: NONE; -- USE IN COMMERCE DATE: NONE  
031 - livestock feed -- FIRST USE DATE: NONE; -- USE IN COMMERCE DATE: NONE

ALL OF THE GOODS/SERVICES IN EACH CLASS ARE LISTED

---

**ADDITIONAL INFORMATION MAY BE PRESENT IN THE USPTO RECORDS**



UNITED STATES PATENT AND TRADEMARK OFFICE

---

Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451  
[www.uspto.gov](http://www.uspto.gov)

Jan 24, 2007

**NOTICE OF PUBLICATION UNDER 12(a)**

- |                                      |   |
|--------------------------------------|---|
| 1. Serial No.:<br>78/917,849         | 2. Mark:<br>AMINOGREEN<br>Standard Character Mark |
| 3. International Class(es):<br>5, 31 |   |
| 4. Publication Date:<br>Feb 13, 2007 | 5. Applicant:<br>AFGRITECH LTD.                   |

The mark of the application identified appears to be entitled to registration. The mark will, in accordance with Section 12(a) of the Trademark Act of 1946, as amended, be published in the Official Gazette on the date indicated above for the purpose of opposition by any person who believes he will be damaged by the registration of the mark. If no opposition is filed within the time specified by Section 13(a) of the Statute or by rules 2.101 or 2.102 of the Trademark Rules, the Commissioner of Patents and Trademarks may issue a notice of allowance pursuant to section 13(b) of the Statute.

Copies of the trademark portion of the Official Gazette containing the publication of the mark may be obtained from:

The Superintendent of Documents  
U.S. Government Printing Office  
PO Box 371954  
Pittsburgh, PA 15250-7954  
Phone: 202-512-1800

By direction of the Commissioner.

---

Correspondence Address:

THOMAS H. VAN HOOZER  
HOVEY WILLIAMS LLP  
2405 GRAND BLVD STE 400  
KANSAS CITY, MO 64108-2519

TMP&I

**Trademark Snap Shot Publication Stylesheet**  
(Table presents the data on Publication Approval)

**OVERVIEW**

SERIAL NUMBER	78917849	FILING DATE	06/27/2006
REG NUMBER	0000000	REG DATE	N/A
REGISTER	PRINCIPAL	MARK TYPE	TRADEMARK
INTL REG #	N/A	INTL REG DATE	N/A
TM ATTORNEY	HETZEL, DANNEAN	L.O. ASSIGNED	106

**PUB INFORMATION**

RUN DATE	12/01/2006
PUB DATE	N/A
STATUS	680-APPROVED FOR PUBLICATON
STATUS DATE	11/30/2006
LITERAL MARK ELEMENT	AMINOGREEN

DATE ABANDONED	N/A	DATE CANCELLED	N/A
SECTION 2F	NO	SECTION 2F IN PART	NO
SECTION 8	NO	SECTION 8 IN PART	NO
SECTION 15	NO	REPUB 12C	N/A
RENEWAL FILED	NO	RENEWAL DATE	N/A
DATE AMEND REG	N/A		

**FILING BASIS**

FILED BASIS		CURRENT BASIS		AMENDED BASIS	
1 (a)	NO	1 (a)	NO	1 (a)	NO
1 (b)	YES	1 (b)	YES	1 (b)	NO
44D	NO	44D	NO	44D	NO
44E	NO	44E	NO	44E	NO
66A	NO	66A	NO		
NO BASIS	NO	NO BASIS	NO		

**MARK DATA**

STANDARD CHARACTER MARK	YES
LITERAL MARK ELEMENT	AMINOGREEN

MARK DRAWING CODE	4-STANDARD CHARACTER MARK
COLOR DRAWING FLAG	NO

### CURRENT OWNER INFORMATION

PARTY TYPE	10-ORIGINAL APPLICANT
NAME	AFGRITECH LTD.
ADDRESS	Old Croft, Stanwix Carlisle, CA3 9BA
ENTITY	03-CORPORATION
CITIZENSHIP	United Kingdom

### GOODS AND SERVICES

INTERNATIONAL CLASS	005
DESCRIPTION TEXT	animal feed supplement
INTERNATIONAL CLASS	031
DESCRIPTION TEXT	livestock feed

### GOODS AND SERVICES CLASSIFICATION

INTERNATIONAL CLASS	005	FIRST USE DATE	NONE	FIRST USE IN COMMERCE DATE	NONE	CLASS STATUS	6-ACTIVE
INTERNATIONAL CLASS	031	FIRST USE DATE	NONE	FIRST USE IN COMMERCE DATE	NONE	CLASS STATUS	6-ACTIVE

### MISCELLANEOUS INFORMATION/STATEMENTS

CHANGE IN REGISTRATION	NO
PSEUDO MARK	AMINO GREEN

### PROSECUTION HISTORY

DATE	ENT CD	ENT TYPE	DESCRIPTION	ENT NUM
11/30/2006	CNSA	P	APPROVED FOR PUB - PRINCIPAL REGISTER	004
11/29/2006	DOCK	D	ASSIGNED TO EXAMINER	003
07/04/2006	MPMK	O	NOTICE OF PSEUDO MARK MAILED	002
07/03/2006	NWAP	I	NEW APPLICATION ENTERED IN TRAM	001

### **CURRENT CORRESPONDENCE INFORMATION**

ATTORNEY	Thomas H. Van Hoozer
CORRESPONDENCE ADDRESS	THOMAS H. VAN HOOZER HOVEY WILLIAMS LLP 2405 GRAND BLVD STE 400 KANSAS CITY, MO 64108-2519
DOMESTIC REPRESENTATIVE	Thomas H. Van Hoozer

# AMINO GREEN



# NOTE TO THE FILE

SERIAL NUMBER: 78917849

DATE: 11/29/2006

NAME: dhetzel

## NOTE:

- ☐ Checked LEXIS/NEXIS
- ☒ Searched internet using [Google, Yahoo, Answers]
- ☐ Checked with Law Library re surname.
- ☐ Checked geographic significance.
- ☐ Checked with translations branch.
- ☐ Checked ID with ID/Class
- ☐ Checked ID with Senior Attorney/Managing Attorney
- ☐ Telephoned attorney/applicant leaving message re: \_\_\_\_\_
- ☐ Telephoned attorney/applicant, application was signed on \_\_\_\_\_
- ☐ Personal interview conducted with attorney/applicant re \_\_\_\_\_
- ☐ Attorney/applicant called to discuss \_\_\_\_\_
- ☐ Bulky specimens with examiner.
- ☐ Acronym website searched.
- ☐ Changed Tradeups to add. \_\_\_\_\_
- ☐ Changed Tradeups to delete. \_\_\_\_\_
- ☐ Changed Tradeups to add Examiner's Amendment.
- ☐ Letter of Protest Granted

\_\_ OTHER (insert reason for Note)

Sent to TICRS as Serial Number: 78917853

\*\*\* User:dhettel \*\*\*

#	Total Marks	Dead Marks	Live Viewed Docs	Live Viewed Images	Status/ Search Duration	Search
01	2894	N/A	0	0	0:02	*{"mn"} {"iye"} no*[bi,ti]
02	25888	N/A	0	0	0:02	*gr\$2n*[bi,ti]
03	10	2	5	3	0:01	1 and 2
04	660	N/A	0	0	0:01	*a {"mn"} {"iye"} no*[bi,ti]
05	10334	N/A	0	0	0:01	*gre\$1n*[bi,ti]
06	4533	N/A	0	0	0:01	(4 or 5) and "031"[cc]
07	1700	N/A	0	0	0:02	(4 or 5) and ("005" or "031" or a or b or 200)[ic]
08	272	N/A	0	0	0:02	4 and ("005" or "031" or a or b or 200)[ic]
09	109	0	75	55	0:01	8 not dead
10	10028	N/A	0	0	0:02	*green*[bi,ti]
11	272	N/A	0	0	0:01	8 and ("005" or "031" or a or b or 200)[ic]
12	109	0	8	8	0:01	11 not dead
13	1392	N/A	0	0	0:02	10 and ("005" or "031" or a or b or 200)[ic]
14	1017	N/A	0	0	0:02	green[bi,ti] and ("005" or "031" or a or b or 200)[ic]

Session started 11/29/2006 4:34:21 PM

Session finished 11/29/2006 4:44:13 PM

Total search duration 0 minutes 21 seconds

Session duration 9 minutes 52 seconds

Default NEAR limit=1ADJ limit=1

Sent to TIGRS as Serial Number: 78917849

Side - 1



**MAILING DATE: Jul 4, 2006  
PSEUDO MARK FOR  
SERIAL NUMBER: 78917849**

**Attorney Reference Number: 37382; 4399.**

The USPTO may assign pseudo marks, as appropriate, to new applications to assist in searching the USPTO database for conflicting marks. They have no legal significance and will not appear on the registration certificate.

A pseudo mark may be assigned to marks that include words, numbers, compound words, symbols, or acronyms that can have alternative spellings or meanings. For example, if the mark comprises the words "YOU ARE" surrounded by a design of a box, the pseudo mark field in the USPTO database would display the mark as "YOU ARE SQUARE." A mark filed as "URGR8" would receive a pseudo mark of "YOU ARE GREAT."

You are not required to respond to this notice. However, if you would like to suggest additions or changes to the pseudo mark assigned to your mark, please send an email to [TMDesignCodeComments@USPTO.GOV](mailto:TMDesignCodeComments@USPTO.GOV) or call 1-800-786-9199 to speak to a customer service representative. No fee is necessary. (Please include the serial number of your application on ALL correspondence with the USPTO.) The USPTO will review your request and update the record if appropriate.

**PSEUDO MARK: AMINO GREEN**

Side - 2

UNITED STATES PATENT AND TRADEMARK OFFICE  
COMMISSIONER FOR TRADEMARKS  
P.O. BOX 1451  
ALEXANDRIA, VA 22313-1451

FIRST-CLASS  
MAIL  
U.S POSTAGE  
PAID

THOMAS H. VAN HOOZER  
HOVEY WILLIAMS LLP  
2405 GRAND BLVD STE 400  
KANSAS CITY, MO 64108-2519



## Trademark/Service Mark Application, Principal Register

Serial Number: 78917849

Filing Date: 06/27/2006

The table below presents the data as entered.

Input Field	Entered
<b>MARK SECTION</b>	
MARK	<u>AMINOGREEN</u>
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	AMINOGREEN
MARK STATEMENT	The mark consists of standard characters, without claim to any particular font, style, size, or color.
<b>OWNER SECTION</b>	
NAME	AFGRITECH LTD.
STREET	Old Croft, Stanwix
CITY	Carlisle
ZIP/POSTAL CODE	CA3 9BA
COUNTRY	United Kingdom
AUTHORIZED EMAIL COMMUNICATION	No
<b>LEGAL ENTITY SECTION</b>	
TYPE	CORPORATION
STATE/COUNTRY OF INCORPORATION	United Kingdom
<b>GOODS AND/OR SERVICES SECTION</b>	
INTERNATIONAL CLASS	005
DESCRIPTION	animal feed supplement
FILING BASIS	Section 1(b)
<b>GOODS AND/OR SERVICES SECTION</b>	

INTERNATIONAL CLASS	031
DESCRIPTION	livestock feed
FILING BASIS	Section 1(b)
<b>SIGNATURE SECTION</b>	
SIGNATORY FILE	<u>\\TICRS\EXPORT5\IMAGEOUT5\789\178\78917849\xml1\AP P0003.JPG</u>
SIGNATORY NAME	Christopher N.C.Holmes
SIGNATORY POSITION	Chief Executive Officer
<b>PAYMENT SECTION</b>	
NUMBER OF CLASSES	2
NUMBER OF CLASSES PAID	2
SUBTOTAL AMOUNT	650
TOTAL AMOUNT	650
PAYMENT METHOD	DA
<b>ATTORNEY</b>	
NAME	Thomas H. Van Hoozer
FIRM NAME	HOVEY WILLIAMS LLP
INTERNAL ADDRESS	Suite 400
STREET	2405 Grand Boulevard
CITY	Kansas City
STATE	Missouri
ZIP/POSTAL CODE	64108
COUNTRY	United States
PHONE	816-474-9050
FAX	816-474-9057
AUTHORIZED EMAIL COMMUNICATION	No
ATTORNEY DOCKET NUMBER	37382; 4399.002
OTHER APPOINTED ATTORNEY(S)	Warren N. Williams, Stephen D. Timmons, John M. Collins, Thomas B. Luebbering, Andrew G. Colombo, Scott R. Brown, Tracy L. Bornman, Michael B. Hurd, Michael Elbein, Joan Optican Herman, David V.

	Ayres, Kameron D. Kelly, Gregory J. Skoch, Jennifer C. Bailey, Cheryl L. Burbach, Sam Korte, Matthew P. Harlow, Randy W. Schwartz, Allison L. Eblen, and Katy B. Richardson
--	---

#### **DOMESTIC REPRESENTATIVE SECTION**

NAME	Thomas H. Van Hoozer
FIRM NAME	HOVEY WILLIAMS LLP
INTERNAL ADDRESS	Suite 400
STREET	2405 Grand Boulevard
CITY	Kansas City
STATE	Missouri
ZIP/POSTAL CODE	64108
COUNTRY	United States
PHONE	816-474-9050
FAX	816-474-9057
AUTHORIZED EMAIL COMMUNICATION	No

#### **CORRESPONDENCE SECTION**

NAME	Thomas H. Van Hoozer
FIRM NAME	HOVEY WILLIAMS LLP
INTERNAL ADDRESS	Suite 400
STREET	2405 Grand Boulevard
CITY	Kansas City
STATE	Missouri
ZIP/POSTAL CODE	64108
COUNTRY	United States
PHONE	816-474-9050
FAX	816-474-9057
AUTHORIZED EMAIL COMMUNICATION	No

#### **FILING INFORMATION**

SUBMIT DATE	Tue Jun 27 14:46:52 EDT 2006
	USPTO/BAS-6891202162-2006 0627144652762006-78917849



TEAS STAMP

-200f2ba2cd7869bb92534d89  
e9ceae944c-DA-7-200606271  
44113429649

---

## **Trademark/Service Mark Application, Principal Register**

**Serial Number: 78917849**

**Filing Date: 06/27/2006**

### **To the Commissioner for Trademarks:**

**MARK:** (Standard Characters, see mark)

The mark consists of standard characters, without claim to any particular font, style, size, or color.

The literal element of the mark consists of AMINOGREEN.

The applicant, AFGRITECH LTD., a corporation of United Kingdom, residing at Old Croft, Stanwix, Carlisle, United Kingdom, CA3 9BA, requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended.

**Intent to Use:** The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. (15 U.S.C. Section 1051(b)).

International Class 005: animal feed supplement

International Class 031: livestock feed

The applicant hereby appoints Thomas H. Van Hoozer and Warren N. Williams, Stephen D. Timmons, John M. Collins, Thomas B. Luebbering, Andrew G. Colombo, Scott R. Brown, Tracy L. Bornman, Michael B. Hurd, Michael Elbein, Joan Optican Herman, David V. Ayres, Kameron D. Kelly, Gregory J. Skoch, Jennifer C. Bailey, Cheryl L. Burbach, Sam Korte, Matthew P. Harlow, Randy W. Schwartz, Allison L. Eblen, and Katy B. Richardson of HOVEY WILLIAMS LLP, Suite 400, 2405 Grand Boulevard, Kansas City, Missouri, United States, 64108 to submit this application on behalf of the applicant. The attorney docket/reference number is 37382; 4399.002.

The applicant hereby appoints Thomas H. Van Hoozer of HOVEY WILLIAMS LLP, Suite 400, 2405 Grand Boulevard, Kansas City, Missouri, United States (USX) 64108 as applicant's representative upon whom notice or process in the proceedings affecting the mark may be served.

A fee payment in the amount of \$650 will be submitted with the application, representing payment for 2 class(es).

### **Declaration**

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements, and the like, may jeopardize the validity of the application or any resulting registration, declares that he/she is

properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Signature:

Signatory's Name: Christopher N.C.Holmes

Signatory's Position: Chief Executive Officer

Signatory's Signature: Signature

Mailing Address:

Thomas H. Van Hoozer

Suite 400

2405 Grand Boulevard

Kansas City, Missouri 64108

RAM Sale Number: 7

RAM Accounting Date: 06/28/2006

Serial Number: 78917849

Internet Transmission Date: Tue Jun 27 14:46:52 EDT 2006

TEAS Stamp: USPTO/BAS-6891202162-2006062714465276200

6-78917849-200f2ba2cd7869bb92534d89e9cea

e944c-DA-7-20060627144113429649

# AMINO GREEN

**Trademark/Service Mark Application, Principal Register**

To the Commissioner for Trademarks:

MARK: AMINOGREEN

The mark consists of standard characters, without claim to any particular font, style, size, or color.

The applicant, AFGRITECH LTD., a corporation of United Kingdom, residing at Old Croft, Stanwix, Carlisle, United Kingdom, CA3 9BA, requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended.

Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. (15 U.S.C. Section 1051(b)).

International Class 005: animal feed supplement

International Class 031: livestock feed

The applicant hereby appoints Thomas H. Van Hoozer and Warren N. Williams, Stephen D. Timmons, John M. Collins, Thomas B. Luebbering, Andrew G. Colombo, Scott R. Brown, Tracy L. Bornman, Michael B. Hurd, Michael Elhein, Joan Optican Herman, David V. Ayres, Kameron D. Kelly, Gregory J. Skoch, Jennifer C. Bailey, Cheryl L. Burbach, Sam Korte, Matthew P. Harlow, Randy W. Schwartz, Allison L. Eblen, and Katy B. Richardson of HOVEY WILLIAMS LLP, Suite 400, 2405 Grand Boulevard, Kansas City, Missouri, United States, 64108 to submit this application on behalf of the applicant. The attorney docket/reference number is 37382; 4399.002.


The applicant hereby appoints Thomas H. Van Hoozer of HOVEY WILLIAMS LLP, Suite 400, 2405 Grand Boulevard, Kansas City, Missouri, United States (USX) 64108 as applicant's representative upon whom notice or process in the proceedings affecting the mark may be served.

APPLICANT NAME: AFGRITECH LTD.

MARK: AMINOGREEN

**Declaration**

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements, and the like, may jeopardize the validity of the application or any resulting registration, declares that he is properly authorized to execute this application on behalf of the applicant; he believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he believes applicant to be entitled to use such mark in commerce; to the best of his knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his own knowledge are true; and that all statements made on information and belief are believed to be true.

Signature: 

Signatory's Name: Christopher N.C. Holmes

Signatory's Position: Chief Executive Officer

Date: 18th June 2006

# AMINO GREEN

# EXHIBIT B

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Evonik Degussa GmbH,	)	
	)	
Opposer,	)	
	)	
v.	)	Opposition No. 91199752 (parent)
	)	91200034
	)	
	)	
Afgritech Ltd.,	)	
	)	
Applicant.	)	

**AFGRITECH'S ANSWERS TO EVONIK'S  
FIRST SET OF REQUESTS FOR ADMISSION TO APPLICANT**

Applicant Afgritech, Ltd. ("Afgritech"), pursuant to Federal Rule of Civil Procedure 26 and 36, as incorporated into the Rules of Practice in Trademark Cases under the provisions of 37 C.F.R. 2.116 and Rule 2.120 of the Trademark Rules of Practice, answers Opposer Evonik Degussa GmbH ("Opposer") First Set of Requests for Admission addressed to Afgritech. Afgritech reserves the right to supplement these responses upon the discovery of additional documents through discovery or otherwise.

**REQUESTS FOR ADMISSION**

**REQUEST No. 1:**

Admit that Afgritech has no documents in its possession, custody, or control relating to the creation, selection, and adoption of the AMINOGREEN Mark in the United States other than the application therefor, which is the subject of this opposition and is available online at the PTO website - as Afgritech represented in its Document Response No.1.

**ANSWER:** Applicant denies this Request to the extent that it requests Afgritech to admit that it has "no documents other than the application therefor"; Afgritech does admit this Request to the extent that the Request is limited to "non-privileged documents."

**REQUEST No. 2:**

Admit that Afgritech has no documents in its possession, custody, or control relating to any trademark, service mark, or Internet domain name investigation or search conducted by



Afgritech or on behalf of Afgritech relating to the AMINOGREEN Mark in the United States - as Afgritech represented in its Document Response No. 3.

**ANSWER:** Admit.

**REQUEST No. 3:**

Admit that Afgritech has no documents in its possession, custody, or control relating to Afgritech's decision to apply for a federal registration for the AMINOGREEN Mark in the United States other than the application therefor, which is the subject of this opposition and is available online at the PTO website - as Afgritech represented in its Document Response No.5.

**ANSWER:** Applicant denies this Request to the extent that it requests Afgritech to admit that it has "no documents" and to the extent that it does not include a reference to the application and records available online from the United States Patent and Trademark Office for application no. 78/917,849 referenced in Request No. 30. Other than the application and prosecution file for application no. 78/917,849 and subject to the foregoing, Afgritech does admit this Request to the extent that the Request is limited to "non-privileged documents."

**REQUEST No. 4:**

Admit that Afgritech has no documents in its possession, custody, or control relating to Afgritech's anticipated first use in commerce of the AMINOGREEN Mark in the United States - as Afgritech represented in its Document Response No. 9.

**ANSWER:** Admit.

**REQUEST No. 5:**

Admit that Afgritech has no documents in its possession, custody, or control demonstrating the type(s) of goods or services in connection with which Afgritech intends to use the AMINOGREEN Mark in the United States - as Afgritech represented in its Document Response No. 11.

**ANSWER:** Afgritech denies this Request to the extent that it has produced documents demonstrating the types of goods sold under the AMINOMAX mark and anticipates that goods which will be sold under the AMINOGREEN mark will be similar thereto. Afgritech admits this Request to the extent that it has no documents as referenced in this Request specific to the AMINOGREEN mark.

**REQUEST No. 6:**

Admit that Afgritech has no documents in its possession, custody, or control relating to the geographic areas and channels of trade in which Afgritech intends to use the AMINOGREEN Mark in the United States - as Afgritech represented in its Document Response No. 13.

**ANSWER:** Afgritech denies this Request to the extent that it has produced documents relating to the geographic areas and channels of trade for goods sold under the AMINOMAX mark and anticipates that goods which will be sold under the AMINOGREEN mark will be sold in similar geographic areas and in similar channels of trade. Afgritech admits this Request to the extent that it has no documents as referenced in this Request specific to the AMINOGREEN mark.

**REQUEST No. 7:**

Admit that Afgritech has no documents in its possession, custody, or control relating to the advertising, marketing, and promotional materials in which Afgritech intends to use the AMINOGREEN Mark in the United States - as Afgritech represented in its Document Response No. 15.

**ANSWER:** Afgritech denies this Request to the extent that it has produced documents relating to the advertising, marketing and promotional materials in which Afgritech uses the AMINOMAX mark and anticipates that goods which will be sold under the AMINOGREEN mark will be advertised, marketed and promoted in a similar manner. Afgritech admits this Request to the extent that it has no documents as referenced in this Request specific to the AMINOGREEN mark.

**REQUEST No. 8:**

Admit that Afgritech has no documents in its possession, custody, or control relating to any assignment, consent, authorization, license or permission between Afgritech and any individual(s) or entity(ies) relating to the AMINOGREEN Mark in the United States – as Afgritech represented in its Document Response No. 17.

**ANSWER:** Admit.

**REQUEST No. 9:**

Admit that Afgritech has no documents in its possession, custody, or control relating to Afgritech's ownership of the AMINOGREEN Mark in the United States, other than the PTO prosecution file history for the AMINOGREEN Mark - as Afgritech represented in its Document Response No. 19.

**ANSWER:** Admit.

**REQUEST No. 10:**

Admit that Afgritech has no specimens of any product, label, packaging, tag, brochure, advertisement, promotional item, informational literature, or invoice in its possession, custody, or control that Afgritech (or another party with Afgritech's consent) intends to use in the United States depicting or bearing any form of the AMINOGREEN Mark - as Afgritech represented in its Document Response No. 21.

**ANSWER:** Admit.

**REQUEST No. 11:**

Admit that Afgritech has no documents in its possession, custody, or control relating to any product, label, packaging, tag, brochure, advertisement, promotional item, informational literature, or invoice that Afgritech (or another party with Afgritech's consent) intends to use in the United States depicting or bearing any form of the AMINOGREEN Mark as Afgritech represented in its Document Response No. 23.

**ANSWER:** Admit.

**REQUEST No. 12:**

Admit that Afgritech has no specimens in its possession, custody, or control showing each and every variation of the AMINOGREEN Mark intended to be used in the United States by Afgritech or on behalf of Afgritech - as Afgritech represented in its Document Response No. 24.

**ANSWER:** Admit.

**REQUEST No. 13:**

Admit that Afgritech has no documents in its possession, custody, or control relating to any printed or electronic media publication in which Afgritech plans to advertise or promote its goods or services in commerce under the AMINOGREEN Mark in the United States - as Afgritech represented in its Document Response No. 26.

**ANSWER:** Afgritech denies this Request to the extent that it has produced documents relating to the printed media in which Afgritech uses the AMINOMAX mark and anticipates that goods which will be sold under the AMINOGREEN mark will appear and be promoted in a similar manner. Afgritech admits this Request to the extent that it has no documents as referenced in this Request specific to the AMINOGREEN

**REQUEST No. 14:**

Admit that Afgritech has no documents in its possession, custody, or control relating to Afgritech's past, present, and future marketing plans that relate to the AMINOGREEN Mark in the United States - as Afgritech represented in its Document Response No. 28.

**ANSWER:** Admit.

**REQUEST No. 15:**

Admit that Afgritech has no documents in its possession, custody, or control relating to the types of customers with whom Afgritech intends to do business in connection with the AMINOGREEN Mark in the United States, and the ultimate purchasers to whom Afgritech intends to offer goods or services under the AMINOGREEN Mark in the United States – as Afgritech represented in its Document Response No. 30.

**ANSWER:** Afgritech denies this Request to the extent that it has produced documents relating to the types of customers to which products bearing the AMINOMAX mark are sold and anticipates that goods which will be sold under the AMINOGREEN mark will be sold to similar customers. Afgritech admits this Request to the extent that it has no documents as referenced in this Request specific to the AMINOGREEN mark.

**REQUEST No. 16:**

Admit that Afgritech has no documents in its possession, custody, or control relating to any market, demographic, or consumer-profile study, or focus-group inquiry, relating to the AMINOGREEN Mark in the United States - as Afgritech represented in its Document Response No. 32.

**ANSWER:** Admit.

**REQUEST No. 17:**

Admit that Afgritech has no documents in its possession, custody, or control relating to the dollar value of the actual and/or projected sales of Afgritech's goods and services under the AMINOGREEN Mark in the United States - as Afgritech represented in its Document Response No. 34.

**ANSWER:** Admit.

**REQUEST No. 18:**

Admit that Afgritech has no documents in its possession, custody, or control relating to its methods of distribution of Afgritech's goods or services under the AMINOGREEN Mark in the United States - as Afgritech represented in its Document Response No. 36.

**ANSWER:** Admit.

**REQUEST No. 19:**

Admit that Afgritech has no documents in its possession, custody, or control relating to the amount of money that Afgritech has expended and/or budgeted to promote its goods or services under the AMINOGREEN Mark in the United States - as Afgritech represented in its Document Response No. 38.

**ANSWER:** Admit.

**REQUEST No. 20:**

Admit that Afgritech has no corporate minutes, resolutions, or any other corporate records relating to the AMINOGREEN Mark.

**ANSWER:** Admit.

**REQUEST No. 21:**

Admit that Afgritech has no supervisory employees responsible for the promotion, sale, or distribution of Afgritech's goods and services under the AMINOGREEN Mark in the United States - as Afgritech represented in its Interrogatory Response No.1.

**ANSWER:** Afgritech denies this Request to the extent that its supervisory employees responsible for the promotion, sale, and distribution of its AMINOMAX goods will likely be those who will be responsible for the promotion, sale or distribution of Afgritech's goods to be sold under the AMINOGREEN mark in the United States; to the extent the Request is limited to current promotion, sale and distribution of goods under the AMINOGREEN mark, Afgritech admits this Request.

**REQUEST No. 22:**

Admit that no person at Afgritech or on behalf of Afgritech has ever made any search, inquiry, or investigation relating to the AMINOGREEN Mark in the United States – as Afgritech represented in its Interrogatory Response No.7.

**ANSWER:** Admit.

**REQUEST No. 23:**

Admit that Afgritech has not received any opinion relating to whether there is a likelihood of confusion between the AMINOGREEN Mark and any other mark, other than the May 12, 2011 opinion of Thomas H. Van Hoozer that Afgritech identified in its Interrogatory Response No.9.

**ANSWER:** Admit.

**REQUEST No. 24:**

Admit that Afgritech has not budgeted or expended any money to promote the AMINOGREEN Mark in the United States - as Afgritech represented in its Interrogatory Response No. 15.

**ANSWER:** Admit.

**REQUEST No. 25:**

Admit that Afgritech has not received any income, or projected any anticipated income, from the sale of goods or services under the AMINOGREEN Mark in the United States - as Afgritech represented in its Interrogatory Response No. 16.

**ANSWER:** Admit.

**REQUEST No. 26:**

Admit that Afgritech has no promotional documents or items that have been used or are being considered for use by Afgritech in connection with the promotion and sale of Afgritech's goods and services under the AMINOGREEN Mark in the United States – as Afgritech represented in its Interrogatory Response No. 22.

**ANSWER:** Admit.

**REQUEST No. 27:**

Admit that Afgritech cannot identify any person with knowledge of any market research (including surveys, studies, investigations, and focus-group inquiries) conducted by or on behalf of Afgritech relating to the AMINOGREEN Mark in the United States - as Afgritech represented in its Interrogatory Response No. 28.

**ANSWER:** Admit.

**REQUEST No. 28:**

Admit that Afgritech cannot identify any person or agency that has participated in the creation or distribution of advertisements or promotions for Afgritech's goods or services under the AMINOGREEN Mark in the United States - as Afgritech represented in its Interrogatory Response No. 37.

**ANSWER:** Admit.

**REQUEST No. 29:**

Admit that Afgritech filed its PTO Application Serial Number 85/096,047 for the AMINOGREEN Mark on July 29, 2010.

**ANSWER:** Admit.

**REQUEST No. 30:**

Admit that on June 7, 2010, the PTO mailed a "Notice of Abandonment" to Thomas H. Van Hoozer, counsel for Afgritech, noting that Afgritech's Application Serial Number 78/917,849 for the mark AMINOGREEN for "animal feed supplement" and "livestock feed" was abandoned because Afgritech had failed to file for a statement of use or an extension of time.

**ANSWER:** Admit.

**REQUEST No. 31:**

Admit that Afgritech has no documents in its possession, custody, or control relating to Afgritech's intent to use the AMINOGREEN Mark in the United States, other than the PTO application and prosecution file history therefor.

**ANSWER:** Applicant denies this Request to the extent that it requests Afgritech to admit that it has "no documents other than the PTO application and file history therefor" and to the extent

that it does not include a reference to the application and records available online from the United States Patent and Trademark Office for application no. 78/917,849 referenced in Request No. 30. Other than the application and prosecution file for application no. 78/917,849 and subject to the foregoing; Afgritech does admit this Request to the extent that the Request is limited to "non-privileged documents."

**REQUEST No. 32:**

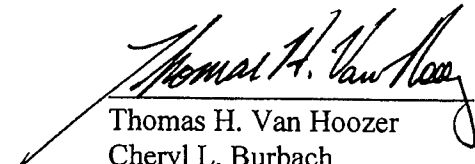
Admit that the documents that Afgritech has produced to Evonik bearing the Bates-labels AFGR000001 through AFGR000052 are authentic under FED. R. EVID. 901-903 and constitute records kept in the course of a regularly conducted activity of a business, organization, occupation, or calling under FED. R. EVID. 803(6)(B).

**ANSWER:** Admit.

Dated: March 2, 2012

Respectfully Submitted,

HOVEY WILLIAMS LLP

  
Thomas H. Van Hoozer  
Cheryl L. Burbach  
Suite 1000, 10801 Mastin Boulevard  
Overland Park, Kansas 66210  
Phone: (913) 647-9050  
Fax: (913) 647-9057  
Email: [tvh@hoveywilliams.com](mailto:tvh@hoveywilliams.com)  
[clb@hoveywilliams.com](mailto:clb@hoveywilliams.com)

ATTORNEYS FOR AFGRITECH AFGRITECH LTD.

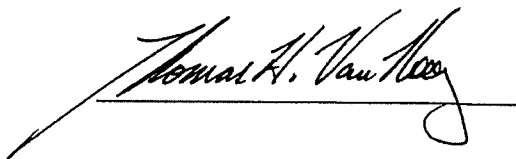


**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on this 2nd day of March, 2012, the foregoing **AFGRITECH'S OBJECTIONS AND RESPONSES TO OPPOSER'S FIRST SET OF REQUESTS FOR ADMISSION TO APPLICANT** has been served on counsel for Afgritech via First Class U.S. Mail to the following address:

Scott D. Woldow, Esq.  
Smith, Gambrell & Russell, LLP  
1130 Connecticut Avenue, N.W., Suite 1130  
Washington, District of Columbia 20036

ATTORNEY FOR OPPOSER EVONIK DEGUSSA GMBH

A handwritten signature in black ink, reading "Thomas H. Van Noy", is written over a horizontal line. The signature is fluid and cursive, with a long horizontal stroke extending to the left and a loop at the end.

# EXHIBIT C

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Evonik Degussa GmbH,	)	
	)	
Opposer,	)	
	)	
v.	)	Opposition No. 91199752 (parent)
	)	91200034
	)	
	)	
Afgritech Ltd.,	)	
	)	
Applicant.	)	

---

**AFGRITECH'S OBJECTIONS AND RESPONSES TO OPPOSER'S FIRST SET OF  
REQUESTS FOR PRODUCTION OF DOCUMENTS**

---

Applicant Afgritech Ltd. ("Afgritech"), pursuant to Federal Rule of Civil Procedure 34, as incorporated into the Rules of Practice in Trademark Cases under the provisions of 37 C.F.R. § 2.116 and Rule 2.120 of the Trademark Rules of Practice, objects and responds to Opposer Evonik Degussa GmbH's ("Evonik") First Set of Requests for the Production of Documents. Applicant reserves the right to supplement these responses upon the discovery of additional documents through discovery or otherwise.

**GENERAL OBJECTIONS**

1. Applicant generally objects to each and every request to the extent it calls for the disclosure of attorney-client privileged communications and/or attorney work product. Applicant will not undertake to locate and log communications between Applicant and counsel regarding the subject matter of this opposition dated after the institution of the opposition. Applicant objects to each discovery request and it has not responded to the extent that the requests seek "each," "any," "all," "related," or "relating" information as overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence, if by these terms, Opposer purports to require Applicant to investigate for and produce all information and materials touching on the subject of the request. Applicant is interpreting such requests as calling for the identification or production of information or materials, to the extent not objected to, which most fully or directly address the subject of the requests, or is representative of the subject information or materials of Applicant. If, by these terms in the requests, Opposer expects Applicant to also produce information or material which is repetitive, cumulative, or only incidentally related to the request subject, then Applicant objects to this purported scope on the basis that such requests are vague, overbroad, unduly burdensome, oppressive, and not reasonably calculated to lead to the discovery of admissible evidence.

2. Applicant objects to the extent that there are no time limitations set forth in Opposer's requests rendering some of them overbroad, unduly burdensome, not relevant, and not reasonably calculated to lead to the discovery of admissible evidence. Applicant will not undertake to log communications between Applicant and counsel for Applicant dated after the institution of this opposition regarding this opposition nor the actions of counsel or actions taken at counsel's direction in furtherance of this opposition.

3. Applicant objects to the production of documents which contain business trade secrets or other confidential information to the extent not already provided for by the Protective Order entered by the Board pursuant to 37 C.F.R. § 2.116(g) or any other protective order entered by the parties. Any documents subject to production that contain business trade secrets or other confidential information shall be produced subject to the Protective Order entered by the Board pursuant to 37 C.F.R. § 2.116(g) or any other protective order entered by the parties.

4. Applicant objects to each document request to the extent that it calls for information not reasonably available to, or not within the possession, custody, or control of Applicant. The responses below are based on information reasonably available to Applicant and documents within Applicant's possession, custody, or control.

Each of the foregoing objections shall be considered continuing and are hereby incorporated by reference into each specific response.

## **REQUESTS FOR PRODUCTION OF DOCUMENTS AND THINGS**

### **REQUEST FOR PRODUCTION NO. 1:**

Produce all non-privileged documents and things in your possession, custody, or control relating to the creation, selection, and adoption of the AMINOGREEN Mark.

**RESPONSE:** Afgriotech objects on the basis that the request is unduly burdensome, overly broad, and seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence to the extent that the request seeks information that is not pertinent to the United States. Afgriotech also object on the basis that the request is unduly burdensome to the extent it seeks "all non-privileged documents and things." Subject to that and the General Objections, Afgriotech states it does not believe there are documents responsive to the Request other than the application, which is the subject of this opposition and available online to the Opposer at the USPTO website. If any other documents are located, Afgriotech will produce representative, responsive documents.

### **REQUEST FOR PRODUCTION NO. 2:**

Produce all non-privileged documents and things in your possession, custody, or control relating to the creation, selection, and adoption of the AMINOMAX Mark.

**RESPONSE:** Afgritech objects on the basis that the request is unduly burdensome, overly broad, and seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence to the extent that the request seeks information that is not pertinent to the United States. Afgritech also object on the basis that the request is unduly burdensome to the extent it seeks "all non-privileged documents and things." Subject to that and the General Objections, Afgritech does not believe it has any responsive documents relating to selection or creation of the AMINOMAX mark for use in the United States other than the application, which is available to Opposer through the USPTO website. If additional responsive documents are located, Afgritech will produce representative, responsive documents. With respect to adoption of the AMINOMAX mark in the United States, Afgritech states it will produce representative, responsive documents.

**REQUEST FOR PRODUCTION NO. 3:**

Produce all non-privileged documents and things in your possession, custody, or control relating to any trademark, service mark, or Internet domain name investigation or search conducted by Afgritech or on behalf of Afgritech relating to the AMINOGREEN Mark.

**RESPONSE:** Afgritech objects on the basis that the request is unduly burdensome, overly broad, and seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence to the extent that the request seeks information that is not pertinent to the United States. Afgritech also object on the basis that the request is unduly burdensome to the extent it seeks "all non-privileged documents and things." Subject to that and the General Objections, Afgritech states that there are no responsive documents.

**REQUEST FOR PRODUCTION NO. 4:**

Produce all non-privileged documents and things in your possession, custody, or control relating to any trademark, service mark, or Internet domain name investigation or search conducted by Afgritech or on behalf of Afgritech relating to the AMINOMAX Mark.

**RESPONSE:** Afgritech objects on the basis that the request is unduly burdensome, overly broad, and seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence to the extent that the request seeks information that is not pertinent to the United States. Afgritech also object on the basis that the request is unduly burdensome to the extent it seeks "all non-privileged documents and things." Subject to that and the General Objections, Afgritech states there are no responsive documents.

**REQUEST FOR PRODUCTION NO. 5:**

Produce all non-privileged documents and things in your possession, custody, or control relating to Afgritech's decision to apply for a federal registration for the AMINOGREEN Mark.

**RESPONSE:** Afgritech objects on the basis that the request is unduly burdensome, overly broad, and seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence to the extent that the request seeks information that is not pertinent to the

United States. Afgritech also object on the basis that the request is unduly burdensome to the extent it seeks "all non-privileged documents and things." Subject to that and the General Objections, Afgritech states it does not believe there are documents responsive to the Request other than the application, which is the subject of this opposition and available online to the Opposer at the USPTO website. If any other documents are located, Afgritech will produce representative, responsive documents.

**REQUEST FOR PRODUCTION NO. 6:**

Produce all non-privileged documents and things in your possession, custody, or control relating to Afgritech's decision to apply for a federal registration for the AMINOMAX Mark.

**RESPONSE:** Afgritech objects on the basis that the request is unduly burdensome, overly broad, and seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence to the extent that the request seeks information that is not pertinent to the United States. Afgritech also object on the basis that the request is unduly burdensome to the extent it seeks "all non-privileged documents and things." Subject to that and the General Objections, Afgritech states it does not believe there are documents responsive to the Request other than the application, which is the subject of this opposition and available online to the Opposer at the USPTO website. If any other documents are located, Afgritech will it will produce representative, responsive documents.

**REQUEST FOR PRODUCTION NO. 7:**

Produce all non-privileged documents and things in your possession, custody, or control relating to the prosecution history of Afgritech's Application Serial Number 85/096,047 for the AMINOGREEN Mark.

**RESPONSE:** Afgritech objects on the basis that the request is unduly burdensome, overly broad, and seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence to the extent that the request seeks information that is not pertinent to the United States. Afgritech also object on the basis that the request is unduly burdensome to the extent it seeks "all non-privileged documents and things." Subject to that and the General Objections, Afgritech states it will produce a copy of the USPTO prosecution file history for Application Serial No. 85/096,047.

**REQUEST FOR PRODUCTION NO. 8:**

Produce all non-privileged documents and things in your possession, custody, or control relating to the prosecution history of Afgritech's Registration Number 3,905,808 for the AMINOMAX Mark.

**RESPONSE:** Afgritech objects on the basis that the request is unduly burdensome, overly broad, and seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence to the extent that the request seeks information that is not pertinent to the United States. Afgritech also object on the basis that the request is unduly burdensome to the

extent it seeks "all non-privileged documents and things" as is the request with respect to the scope of "relating to". Subject to that and the General Objections, Afgritech states it will produce a copy of the USPTO prosecution file history for Registration No. 3,905,808.

**REQUEST FOR PRODUCTION NO. 9:**

Produce all non-privileged documents and things in your possession, custody, or control relating to Afgritech's anticipated first use in commerce of the AMINOGREEN Mark.

**RESPONSE:** Afgritech objects on the basis that the request is unduly burdensome, overly broad, and seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence to the extent that the request seeks information that is not pertinent to the United States. Afgritech also object on the basis that the request is unduly burdensome to the extent it seeks "all non-privileged documents and things." Subject to that and the General Objections, Afgritech states it does not have any documents responsive to this request but should such documents be located, Afgritech will produce representative, responsive documents to the extent any exist.

**REQUEST FOR PRODUCTION NO. 10:**

Produce all non-privileged documents and things in your possession, custody, or control relating to Afgritech's first use in commerce of the AMINOMAX Mark.

**RESPONSE:** Afgritech objects on the basis that the request is unduly burdensome, overly broad, and seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence to the extent that the request seeks information that is not pertinent to the United States. Afgritech also object on the basis that the request is unduly burdensome to the extent it seeks "all non-privileged documents and things." Subject to that and the General Objections, Afgritech states it will produce representative, responsive documents.

**REQUEST FOR PRODUCTION NO. 11:**

Produce all non-privileged documents and things in your possession, custody, or control demonstrating the type(s) of goods or services in connection with which Afgritech intends to use the AMINOGREEN Mark.

**RESPONSE:** Afgritech objects on the basis that the request seeks information not reasonably calculated to lead to the discovery of admissible evidence and is outside the scope of the opposition. Afgritech objects on the basis that the request is unduly burdensome, overly broad, and seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence to the extent that the request seeks information that is not pertinent to the United States. Afgritech also object on the basis that the request is unduly burdensome to the extent it seeks "all non-privileged documents and things." Subject to that and the General Objections, Afgritech states it does not have any responsive documents specific to the AMINOGREEN mark, but that the type of goods it intends to sell under the AMINOGREEN mark are intended to include good similar to those produced in response to Request No. 12, but if

any additional responsive documents are located, Afgritech will produce representative, responsive documents.

**REQUEST FOR PRODUCTION NO. 12:**

Produce all non-privileged documents and things in your possession, custody, or control demonstrating the type(s) of goods or services in connection with which Afgritech has used or intends to use the AMINOMAX Mark.

**RESPONSE:** Afgritech objects on the basis that the request seeks information not reasonably calculated to lead to the discovery of admissible evidence and is outside the scope of the opposition. Afgritech objects on the basis that the request is unduly burdensome, overly broad, and seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence to the extent that the request seeks information that is not pertinent to the United States. Afgritech also object on the basis that the request is unduly burdensome to the extent it seeks "all non-privileged documents and things." Subject to that and the General Objections, Afgritech states it will produce representative, responsive documents.

**REQUEST FOR PRODUCTION NO. 13:**

Produce all non-privileged documents and things in your possession, custody, or control relating to the geographic areas and channels of trade in which Afgritech intends to use the AMINOGREEN Mark.

**RESPONSE:** Afgritech objects on the basis that the request seeks information not reasonably calculated to lead to the discovery of admissible evidence and is outside the scope of the opposition. Afgritech objects on the basis that the request is unduly burdensome, overly broad, and seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence to the extent that the request seeks information that is not pertinent to the United States. Afgritech also object on the basis that the request is unduly burdensome to the extent it seeks "all non-privileged documents and things." Subject to that and the General Objections, Afgritech states it does not believe there are any documents responsive to this request but if such documents are found, it will produce representative, responsive documents to the extent any exist.

**REQUEST FOR PRODUCTION NO. 14:**

Produce all non-privileged documents and things in your possession, custody, or control relating to the geographic areas and channels of trade in which Afgritech has used or intends to use the AMINOMAX Mark.

**RESPONSE: RESPONSE:** Afgritech objects on the basis that the request seeks information not reasonably calculated to lead to the discovery of admissible evidence and is outside the scope of the opposition. Afgritech objects on the basis that the request is unduly burdensome, overly broad, and seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence to the extent that the request seeks information that is not pertinent to the



United States. Afgritech also object on the basis that the request is unduly burdensome to the extent it seeks "all non-privileged documents and things." Subject to that and the General Objections, Afgritech states it will produce representative, responsive documents to the extent any exist.

**REQUEST FOR PRODUCTION NO. 15:**

Produce all non-privileged documents and things in your possession, custody, or control relating to the advertising, marketing, and promotional materials in which Afgritech intends to use the AMINOGREEN Mark.

**RESPONSE:** Afgritech objects on the basis that the request seeks information not reasonably calculated to lead to the discovery of admissible evidence and is outside the scope of the opposition. Afgritech objects on the basis that the request is unduly burdensome, overly broad, and seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence to the extent that the request seeks information that is not pertinent to the United States. Afgritech also object on the basis that the request is unduly burdensome to the extent it seeks "all non-privileged documents and things." Subject to that and the General Objections, Afgritech states it does not believe there are any documents responsive to this request but if such documents are found, it will produce representative, responsive documents to the extent any exist.

**REQUEST FOR PRODUCTION NO. 16:**

Produce all non-privileged documents and things in your possession, custody, or control relating to the advertising, marketing, and promotional materials in which Afgritech has used or intends to use the AMINOMAX Mark.

**RESPONSE:** Afgritech objects on the basis that the request seeks information not reasonably calculated to lead to the discovery of admissible evidence and is outside the scope of the opposition. Afgritech objects on the basis that the request is unduly burdensome, overly broad, and seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence to the extent that the request seeks information that is not pertinent to the United States. Afgritech also object on the basis that the request is unduly burdensome to the extent it seeks "all non-privileged documents and things." Subject to that and the General Objections, Afgritech states it will produce representative, responsive documents.

**REQUEST FOR PRODUCTION NO. 17:**

Produce all non-privileged documents and things in your possession, custody, or control relating to any assignment, consent, authorization, license or permission between Afgritech and any individual(s) or entity(ies) relating to the AMINOGREEN Mark, including any modifications made thereto.

**RESPONSE:** Afgritech objects on the basis that the request seeks information not reasonably calculated to lead to the discovery of admissible evidence and is outside the scope of the opposition. Afgritech objects on the basis that the request is unduly burdensome, overly broad, and seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence to the extent that the request seeks information that is not pertinent to the United States. Afgritech also object on the basis that the request is unduly burdensome to the extent it seeks "all non-privileged documents and things." Subject to that and the General Objections, Afgritech states there are none.

**REQUEST FOR PRODUCTION NO. 18:**

Produce all non-privileged documents and things in your possession, custody, or control relating to any assignment, consent, authorization, license or permission between Afgritech and any individual(s) or entity(ies) relating to the AMINOMAX Mark, including any modifications made thereto.

**RESPONSE:** Afgritech objects on the basis that the request seeks information not reasonably calculated to lead to the discovery of admissible evidence and is outside the scope of the opposition. Afgritech objects on the basis that the request is unduly burdensome, overly broad, and seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence to the extent that the request seeks information that is not pertinent to the United States. Afgritech also object on the basis that the request is unduly burdensome to the extent it seeks "all non-privileged documents and things." Subject to that and the General Objections, Afgritech states that there are no documents responsive to this request.

**REQUEST FOR PRODUCTION NO. 19:**

Produce all non-privileged documents and things in your possession, custody, or control relating to Afgritech's ownership of the AMINOGREEN Mark.

**RESPONSE:** Afgritech objects on the basis that the request seeks information not reasonably calculated to lead to the discovery of admissible evidence and is outside the scope of the opposition. Afgritech objects on the basis that the request is unduly burdensome, overly broad, and seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence to the extent that the request seeks information that is not pertinent to the United States. Afgritech also object on the basis that the request is unduly burdensome to the extent it seeks "all non-privileged documents and things." Subject to that and the General Objections, Afgritech states that other than the documents produced in response to Request No. 7, there are no responsive documents.

**REQUEST FOR PRODUCTION NO. 20:**

Produce all non-privileged documents and things in your possession, custody, or control relating to Afgritech's ownership of the AMINOMAX Mark.

**RESPONSE:** Afgritech objects on the basis that the request seeks information not reasonably calculated to lead to the discovery of admissible evidence and is outside the scope of the opposition. Afgritech objects on the basis that the request is unduly burdensome, overly broad, and seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence to the extent that the request seeks information that is not pertinent to the United States. Afgritech also object on the basis that the request is unduly burdensome to the extent it seeks "all non-privileged documents and things." Subject to that and the General Objections, Afgritech references the documents produced in response to Request No. 8, it does not believe there are any documents responsive to this request but should such documents be located, Afgritech states it will produce representative, responsive documents.

**REQUEST FOR PRODUCTION NO. 21:**

Produce specimens of each and every product, label, packaging, tag, brochure, advertisement, promotional item, informational literature, or invoice in your possession, custody, or control that Afgritech (or another party with Afgritech's consent) intends to use depicting or bearing any form of the AMINOGREEN Mark.

**RESPONSE:** Afgritech objects on the basis that the request seeks information not reasonably calculated to lead to the discovery of admissible evidence and is outside the scope of the opposition. Afgritech objects on the basis that the request is unduly burdensome, overly broad, and seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence to the extent that the request seeks information that is not pertinent to the United States. Afgritech also object on the basis that the request is unduly burdensome to the extent it seeks "each and every product, label, packaging, tag, brochure, advertisement, promotional item, informational literature, or invoice." Subject to that and the General Objections, Afgritech states there are none.

**REQUEST FOR PRODUCTION NO. 22:**

Produce specimens of each and every product, label, packaging, tag, brochure, advertisement, promotional item, informational literature, or invoice in your possession, custody, or control that Afgritech (or another party with Afgritech's consent) has used or intends to use depicting or bearing any form of the AMINOMAX Mark.

**RESPONSE:** Afgritech objects on the basis that the request seeks information not reasonably calculated to lead to the discovery of admissible evidence and is outside the scope of the opposition. Afgritech objects on the basis that the request is unduly burdensome, overly broad, and seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence to the extent that the request seeks information that is not pertinent to the United States. Afgritech also object on the basis that the request is unduly burdensome to the extent it seeks "each and every product, label, packaging, tag, brochure, advertisement, promotional item, informational literature, or invoice." Subject to that and the General Objections, Afgritech states it will produce representative, responsive documents.

**REQUEST FOR PRODUCTION NO. 23:**

Produce all non-privileged documents and things in your possession, custody, or control relating to the labels, packaging, tags, brochures, advertisements, promotional items, informational literature, or invoices produced in response to Request Nos. 21 and 22, including but not limited to prototypes, drafts, and sketches for the same.

**RESPONSE:** Afgritech objects on the basis that the request seeks information not reasonably calculated to lead to the discovery of admissible evidence and is outside the scope of the opposition. Afgritech objects on the basis that the request is unduly burdensome, overly broad, and seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence to the extent that the request seeks information that is not pertinent to the United States. Afgritech also object on the basis that the request is unduly burdensome to the extent it seeks "all non-privileged documents and things." Subject to that and the General Objections, Afgritech states it will produce representative, responsive documents regarding AMINOMAX. There are no responsive documents regarding the AMINOGREEN Mark.

**REQUEST FOR PRODUCTION NO. 24:**

Produce specimens showing each and every variation of the AMINOGREEN Mark intended to be used by Afgritech or on behalf of Afgritech.

**RESPONSE:** Afgritech objects on the basis that the request seeks information not reasonably calculated to lead to the discovery of admissible evidence and is outside the scope of the opposition. Afgritech objects on the basis that the request is unduly burdensome, overly broad, and seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence to the extent that the request seeks information that is not pertinent to the United States. Afgritech also object on the basis that the request is unduly burdensome to the extent it seeks "all non-privileged documents and things." Subject to that and the General Objections, Afgritech states there are no responsive documents.

**REQUEST FOR PRODUCTION NO. 25:**

Produce specimens showing each and every variation of the AMINOMAX Mark used or intended to be used by Afgritech or on behalf of Afgritech.

**RESPONSE:** Afgritech objects on the basis that the request seeks information not reasonably calculated to lead to the discovery of admissible evidence and is outside the scope of the opposition. Afgritech objects on the basis that the request is unduly burdensome, overly broad, and seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence to the extent that the request seeks information that is not pertinent to the United States. Afgritech also object on the basis that the request is unduly burdensome to the extent it seeks "all non-privileged documents and things." Subject to that and the General Objections, Afgritech states it will produce representative, responsive documents.

**REQUEST FOR PRODUCTION NO. 26:**

Produce all non-privileged documents and things in your possession, custody, or control relating to each printed and electronic media publication in which Afgritech plans to advertise or promote its goods or services in commerce under the AMINOGREEN Mark.

**RESPONSE:** Afgritech objects on the basis that the request seeks information not reasonably calculated to lead to the discovery of admissible evidence and is outside the scope of the opposition. Afgritech objects on the basis that the request is unduly burdensome, overly broad, and seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence to the extent that the request seeks information that is not pertinent to the United States. Afgritech also object on the basis that the request is unduly burdensome to the extent it seeks "all non-privileged documents and things." Subject to that and the General Objections, Afgritech states it does not believe it has any such documents but should they be developed, Afgritech will produce representative, responsive documents.

**REQUEST FOR PRODUCTION NO. 27:**

Produce all non-privileged documents and things in your possession, custody, or control relating to each printed and electronic media publication in which Afgritech has advertised or promoted or plans to advertise or promote its goods or services in commerce under the AMINOMAX Mark.

**RESPONSE:** Afgritech objects on the basis that the request seeks information not reasonably calculated to lead to the discovery of admissible evidence and is outside the scope of the opposition. Afgritech objects on the basis that the request is unduly burdensome, overly broad, and seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence to the extent that the request seeks information that is not pertinent to the United States. Afgritech also object on the basis that the request is unduly burdensome to the extent it seeks "all non-privileged documents and things." Subject to that and the General Objections, Afgritech states it will produce representative, responsive documents.

**REQUEST FOR PRODUCTION NO. 28:**

Produce all non-privileged documents and things in your possession, custody, or control relating to Afgritech's past, present, and future marketing plans that relate to the AMINOGREEN Mark.

**RESPONSE:** Afgritech objects on the basis that the request seeks information not reasonably calculated to lead to the discovery of admissible evidence and is outside the scope of the opposition. Afgritech objects on the basis that the request is unduly burdensome, overly broad, and seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence to the extent that the request seeks information that is not pertinent to the United States. Afgritech also object on the basis that the request is unduly burdensome to the extent it seeks "all non-privileged documents and things." Subject to that and the General Objections, Afgritech states there are no responsive documents.

**REQUEST FOR PRODUCTION NO. 29:**

Produce all non-privileged documents and things in your possession, custody, or control relating to Afgritech's past, present, and future marketing plans that relate to the AMINOMAX Mark.

**RESPONSE:** Afgritech objects on the basis that the request seeks information not reasonably calculated to lead to the discovery of admissible evidence and is outside the scope of the opposition. Afgritech objects on the basis that the request is unduly burdensome, overly broad, and seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence to the extent that the request seeks information that is not pertinent to the United States. Afgritech also object on the basis that the request is unduly burdensome to the extent it seeks "all non-privileged documents and things." Subject to that and the General Objections, Afgritech states it will produce representative, responsive documents.

**REQUEST FOR PRODUCTION NO. 30:**

Produce all non-privileged documents and things in your possession, custody, or control relating to the types of customers with whom Afgritech intends to do business in connection with the AMINOGREEN Mark, and the ultimate purchasers to whom Afgritech intends to offer goods or services under the AMINOGREEN Mark.

**RESPONSE:** Afgritech objects on the basis that the request seeks information not reasonably calculated to lead to the discovery of admissible evidence and is outside the scope of the opposition. Afgritech objects on the basis that the request is unduly burdensome, overly broad, and seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence to the extent that the request seeks information that is not pertinent to the United States. Afgritech also object on the basis that the request is unduly burdensome to the extent it seeks "all non-privileged documents and things." Subject to that and the General Objections, Afgritech states it does not believe there are any documents specific tot the AMINOGREEN mark but that documents produced responsive to the Request No. 31 would reflect Afgritech's current intentions regarding types of consumers for goods under the AMINOGREEN mark.

**REQUEST FOR PRODUCTION NO. 31:**

Produce all non-privileged documents and things in your possession, custody, or control relating to the types of customers with whom Afgritech has done business in connection with the AMINOMAX Mark, and the ultimate purchasers to whom Afgritech has offered goods or services under the AMINOMAX Mark.

**RESPONSE:** Afgritech objects on the basis that the request seeks information not reasonably calculated to lead to the discovery of admissible evidence and is outside the scope of the opposition. Afgritech objects on the basis that the request is unduly burdensome, overly broad, and seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence to the extent that the request seeks information that is not pertinent to the

United States. Afgritech also object on the basis that the request is unduly burdensome to the extent it seeks "all non-privileged documents and things." Subject to that and the General Objections, Afgritech states it will produce representative, responsive documents.

**REQUEST FOR PRODUCTION NO. 32:**

Produce all non-privileged documents and things in your possession, custody, or control relating to any market, demographic, or consumer-profile study, or focus-group inquiry, relating to the AMINOGREEN Mark.

**RESPONSE:** Afgritech objects on the basis that the request seeks information not reasonably calculated to lead to the discovery of admissible evidence and is outside the scope of the opposition. Afgritech objects on the basis that the request is unduly burdensome, overly broad, and seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence to the extent that the request seeks information that is not pertinent to the United States. Afgritech also object on the basis that the request is unduly burdensome to the extent it seeks "all non-privileged documents and things." Subject to that and the General Objections, Afgritech states there are no responsive documents.

**REQUEST FOR PRODUCTION NO. 33:**

Produce all non-privileged documents and things in your possession, custody, or control relating to any market, demographic, or consumer-profile study, or focus-group inquiry, relating to the AMINOMAX Mark.

**RESPONSE:** Afgritech objects on the basis that the request seeks information not reasonably calculated to lead to the discovery of admissible evidence and is outside the scope of the opposition. Afgritech objects on the basis that the request is unduly burdensome, overly broad, and seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence to the extent that the request seeks information that is not pertinent to the United States. Afgritech also object on the basis that the request is unduly burdensome to the extent it seeks "all non-privileged documents and things." Subject to that and the General Objections, Afgritech states there are no responsive documents.

**REQUEST FOR PRODUCTION NO. 34:**

Produce all non-privileged documents and things in your possession, custody, or control relating to the dollar value of the actual and/or projected sales of Afgritech's goods and services under the AMINOGREEN Mark.

**RESPONSE:** Afgritech objects on the basis that the request seeks information not reasonably calculated to lead to the discovery of admissible evidence and is outside the scope of the opposition. Afgritech objects on the basis that the request is unduly burdensome, overly broad, and seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence to the extent that the request seeks information that is not pertinent to the United States. Afgritech also object on the basis that the request is unduly burdensome to the

extent it seeks "all non-privileged documents and things." Subject to that and the General Objections, Afgritech states there are no responsive documents.

**REQUEST FOR PRODUCTION NO. 35:**

Produce all non-privileged documents and things in your possession, custody, or control relating to the dollar value of the actual and/or projected sales of Afgritech's goods and services under the AMINOMAX Mark.

**RESPONSE:** Afgritech objects on the basis that the request seeks information not reasonably calculated to lead to the discovery of admissible evidence and is outside the scope of the opposition. Afgritech objects on the basis that the request is unduly burdensome, overly broad, and seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence to the extent that the request seeks information that is not pertinent to the United States. Afgritech also object on the basis that the request is unduly burdensome to the extent it seeks "all non-privileged documents and things." Subject to that and the General Objections, Afgritech states it will produce representative, responsive documents.

**REQUEST FOR PRODUCTION NO. 36:**

Produce all non-privileged documents and things in your possession, custody, or control relating to your methods of distribution of Afgritech's goods or services under the AMINOGREEN Mark.

**RESPONSE:** Afgritech objects on the basis that the request seeks information not reasonably calculated to lead to the discovery of admissible evidence and is outside the scope of the opposition. Afgritech objects on the basis that the request is unduly burdensome, overly broad, and seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence to the extent that the request seeks information that is not pertinent to the United States. Afgritech also object on the basis that the request is unduly burdensome to the extent it seeks "all non-privileged documents and things." Subject to that and the General Objections, Afgritech states there are no responsive documents.

**REQUEST FOR PRODUCTION NO. 37:**

Produce all non-privileged documents and things in your possession, custody, or control relating to your methods of distribution of Afgritech's goods or services under the AMINOMAX Mark.

**RESPONSE:** Afgritech objects on the basis that the request seeks information not reasonably calculated to lead to the discovery of admissible evidence and is outside the scope of the opposition. Afgritech objects on the basis that the request is unduly burdensome, overly broad, and seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence to the extent that the request seeks information that is not pertinent to the United States. Afgritech also object on the basis that the request is unduly burdensome to the extent it seeks "all non-privileged documents and things." Subject to that and the General



Objections, Afgritech states it does not believe there any documents responsive to this request but should such documents be developed, it will produce representative, responsive documents.

**REQUEST FOR PRODUCTION NO. 38:**

Produce all non-privileged documents and things in your possession, custody, or control relating to the amount of money that Afgritech has expended and/or budgeted to promote its goods or services under the AMINOGREEN Mark.

**RESPONSE:** Afgritech objects on the basis that the request seeks information not reasonably calculated to lead to the discovery of admissible evidence and is outside the scope of the opposition. Afgritech objects on the basis that the request is unduly burdensome, overly broad, and seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence to the extent that the request seeks information that is not pertinent to the United States. Afgritech also object on the basis that the request is unduly burdensome to the extent it seeks "all non-privileged documents and things." Subject to that and the General Objections, Afgritech states there are no responsive documents.

**REQUEST FOR PRODUCTION NO. 39:**

Produce all non-privileged documents and things in your possession, custody, or control relating to the amount of money that Afgritech has expended and/or budgeted to promote its goods or services under the AMINOMAX Mark.

**RESPONSE:** Afgritech objects on the basis that the request seeks information not reasonably calculated to lead to the discovery of admissible evidence and is outside the scope of the opposition. Afgritech objects on the basis that the request is unduly burdensome, overly broad, and seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence to the extent that the request seeks information that is not pertinent to the United States. Afgritech also object on the basis that the request is unduly burdensome to the extent it seeks "all non-privileged documents and things." Subject to that and the General Objections, Afgritech states it will produce representative, responsive documents.

**REQUEST FOR PRODUCTION NO. 40:**

Produce all non-privileged documents and things in your possession, custody, or control relating to the date and circumstances under which Afgritech first became aware of the AMINORED Mark.

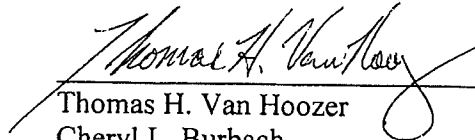
**RESPONSE:** Afgritech objects on the basis that the request seeks information not reasonably calculated to lead to the discovery of admissible evidence and is outside the scope of the opposition. Afgritech objects on the basis that the request is unduly burdensome, overly broad, and seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence to the extent that the request seeks information that is not pertinent to the United States. Afgritech also object on the basis that the request is unduly burdensome to the extent it seeks "all non-privileged documents and things." Subject to that and the General

Objections, Afgritech states that the only documents responsive to this request are set forth in the Notice of Opposition and TTAB scheduling order already in the possession, custody or control of Opposer and thus Afgritech will not produce such documents as to do so would be duplicative and wasteful.

Respectfully Submitted,

Dated: December 21, 2011

HOVEY WILLIAMS LLP



Thomas H. Van Hoozer

Cheryl L. Burbach

Suite 1000, 10801 Mastin Boulevard

Overland Park, Kansas 66210

Phone: (913) 647-9050

Fax: (913) 647-9057

Email: [tvh@hoveywilliams.com](mailto:tvh@hoveywilliams.com)

[clb@hoveywilliams.com](mailto:clb@hoveywilliams.com)

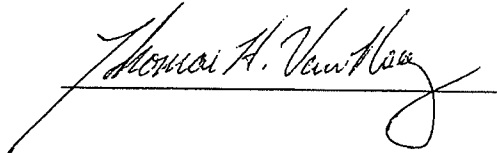
ATTORNEYS FOR APPLICANT AFGRITECH LTD.

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on this 21<sup>st</sup> day of December, 2011, the foregoing **APPLICANT'S OBJECTIONS AND RESPONSES TO OPPOSER'S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS** has been served on counsel for Applicant via First Class U.S. Mail to the following address:

Scott D. Woldow, Esq.  
Smith, Gambrell & Russell, LLP  
1130 Connecticut Avenue, N.W., Suite 1130  
Washington, District of Columbia 20036

ATTORNEY FOR OPPOSER EVONIK DEGUSSA GMBH

A handwritten signature in cursive script, reading "Thomas A. VanHorn", is written over a horizontal line.

# EXHIBIT D

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Evonik Degussa GmbH,	)	
	)	
Opposer,	)	
	)	
v.	)	Opposition No. 91199752 (parent)
	)	91200034
	)	
	)	
Afgritech Ltd.,	)	
	)	
Applicant.	)	

---

**AFGRITECH'S OBJECTIONS AND RESPONSES TO OPPOSER'S  
FIRST SET OF INTERROGATORIES TO APPLICANT**

---

Applicant Afgritech, Ltd. ("Afgritech"), pursuant to Federal Rule of Civil Procedure 34, as incorporated into the Rules of Practice in Trademark Cases under the provisions of 37 C.F.R. 2.116 and Rule 2.120 of the Trademark Rules of Practice, objects and responds to Opposer Evonik Degussa GmbH ("Opposer") First Set of Interrogatories addressed to Afgritech. Afgritech reserves the right to supplement these responses upon the discovery of additional documents through discovery or otherwise. Some of Afgritech's answers to the discovery requests contain **Confidential Business Information/Trade Secrets** and those answers are being submitted on separate pages.

**GENERAL OBJECTIONS**

1. Afgritech objects to each interrogatory to the extent it contains multiple discrete subparts. Afgritech further objects to the entirety of Opposer's First Set of Interrogatories on the basis that the number of interrogatories, including subparts, exceed 75 in number. *See* 37 C.F.R. 2.120(d)(1); TBMP § 405.03(e).
2. Afgritech generally objects to each and every request to the extent it calls for the disclosure of attorney-client privileged communications and/or attorney work product. Afgritech will not undertake to locate and log communications between Afgritech and counsel regarding the subject matter of this opposition dated after the institution of the opposition pursuant to the prior agreement with Opposer's counsel.
3. Afgritech objects to each discovery request and it has not responded to the extent that the requests seek "each," "any," "all," "related," or "relating" information as overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence, if by these terms, Opposer purports to require Afgritech to investigate for and produce all

information and materials touching on the subject of the interrogatory. Afgritech is interpreting such requests as calling for the identification or production of information or materials, to the extent not objected to, which most fully or directly address the subject of the requests, or is representative of the subject information or materials of Afgritech. If, by these terms in the interrogatories, Opposer expects Afgritech to also divulge information or material which is repetitive, cumulative, or only incidentally related to the interrogatory subject, then Afgritech objects to this purported scope on the basis that such requests are vague, overbroad, unduly burdensome, oppressive, and not reasonably calculated to lead to the discovery of admissible evidence.

4. Afgritech objects to the extent that there are no time limitations set forth in Opposer's interrogatories rendering some of them overbroad, unduly burdensome, not relevant, and not reasonably calculated to lead to the discovery of admissible evidence. Afgritech will not undertake to log communications between Afgritech and counsel for Afgritech dated after the institution of this opposition regarding this opposition nor the actions of counsel or actions taken at counsel's direction in furtherance of this opposition.
5. Afgritech objects to divulging information which contains commercially sensitive information, business trade secrets, or other confidential information to the extent not already provided for by the Protective Order entered by the Board pursuant to 37 C.F.R. § 2.116(g) or any other protective order entered by the parties. Any information subject to production that contains commercially sensitive information, business trade secrets, or other confidential information shall be produced subject to the Protective Order entered by the Board pursuant to 37 C.F.R. § 2.116(g) or any other protective order entered by the parties.
6. Afgritech objects to each interrogatory to the extent that it calls for information not reasonably available to, or not within the possession, custody, or control of Afgritech. The responses below are based on information reasonably available to Afgritech and information within Afgritech's possession, custody, or control.
7. Each of the foregoing objections shall be considered continuing and are hereby incorporated by reference into each specific response.

## **INTERROGATORIES**

### **INTERROGATORY NO. 1:**

Identify (by name and title) each of Afgritech's supervisory employees responsible for the promotion, sale, or distribution of Afgritech's goods and services under the AMINOGREEN Mark.

**ANSWER:** Afgritech objects on the basis that the interrogatory is not limited in time or geographic scope. Subject to that and the General Objections, Afgritech states that it has not begun using the AMINOGREEN Mark in the United States and, therefore, there are not

supervisory employees responsible for the promotion, sale, or distribution of Afgritech's goods and services under the AMINOGREEN Mark.

**INTERROGATORY NO. 2:**

Identify (by name and title) each of Afgritech's supervisory employees responsible for the promotion, sale, or distribution of Afgritech's goods and services under the AMINOMAX Mark.

**ANSWER:** Afgritech objects on the basis that the interrogatory is not limited in time or geographic scope. Subject to that and the General Objections, Afgritech states that Afgritech's current supervisory employees responsible for the promotion, sale, or distribution of Afgritech's goods and services under the AMINOMAX Mark in the United States are Richard Wark, President of Afgritech, LLC, and Les Bergham, Regional Sales Manager of Afgritech, LLC, each of whom may be reached through Afgritech's counsel.

**INTERROGATORY NO. 3:**

State the date that Afgritech selected the AMINOGREEN Mark to identify Afgritech's goods and services.

**ANSWER:** Afgritech objects on the basis that the interrogatory is unduly burdensome, overly broad, and not reasonably calculated to lead to the discovery of admissible evidence to the extent the Interrogatory seeks information that is not specific to the United States. Subject to that and the General Objections, Afgritech states that it does not know the exact date that Afgritech selected the AMINOGREEN Mark to identify Afgritech's goods in the United States, but, in any event, no later than sometime before June 27, 2006.

**INTERROGATORY NO. 4:**

State the date that Afgritech selected the AMINOMAX Mark to identify Afgritech's goods and services.

**ANSWER:** Afgritech objects on the basis that the interrogatory is unduly burdensome, overly broad, and not reasonably calculated to lead to the discovery of admissible evidence to the extent the Interrogatory seeks information that is not specific to the United States. Subject to that and the General Objections, Afgritech states that it does not know the exact date that Afgritech selected the AMINOMAX Mark to identify Afgritech's goods in the United States, but, in any event, on or about March 2006.

**INTERROGATORY NO. 5:**

Identify (by name, job title, and relationship to Afgritech) the person(s) who first selected, adopted, created, or conceived of the AMINOGREEN Mark.

**ANSWER:** Subject to the General Objections, Afgritech states that Chris Holmes, Chief Executive Officer of Afgritech Ltd., first selected, adopted, created or conceived of the AMINOGREEN Mark.

**INTERROGATORY NO. 6:**

Identify (by name, job title, and relationship to Afgritech) the person(s) who first selected, adopted, created, or conceived of the AMINOMAX Mark.

**ANSWER:** Subject to the General Objections, Afgritech states that the following persons first selected, adopted, created or conceived of the AMINOMAX Mark:

- Chris Holmes, Chief Executive Officer of Afgritech Ltd.
- Duncan Rose, Technical Manager for Carrs Billington Agriculture (Sales) Ltd.
- Dr. Conrad Coetzer, Technical Consultant for Afgri Operations Ltd or on behalf of one of its trading divisions or affiliates
- Dr. Hinner Koster, with Afgri Operations Ltd. or one of its trading divisions

**INTERROGATORY NO. 7:**

Identify and describe every search, inquiry, or investigation relating to the AMINOGREEN Mark ever made by any person at Afgritech or on behalf of Afgritech, and identify all persons with knowledge of any such search, inquiry, or investigation.

**ANSWER:** Afgritech objects to this interrogatory to the extent it calls for information that is protected by the attorney-client privilege and/or work product doctrine. Afgritech objects on the basis that the interrogatory is unduly burdensome, overly broad, and not reasonably calculated to lead to the discovery of admissible evidence to the extent the Interrogatory seeks information that is not specific to the United States. Subject to those objections and the General Objections, Afgritech states none regarding the United States.

**INTERROGATORY NO. 8:**

Identify and describe every search, inquiry, or investigation relating to the AMINOMAX Mark ever made by any person at Afgritech or on behalf of Afgritech, and identify all persons with knowledge of any such search, inquiry, or investigation.

**ANSWER:** Afgritech objects on the basis that the interrogatory is unduly burdensome, overly broad, and not reasonably calculated to lead to the discovery of admissible evidence to the extent the Interrogatory seeks information that is not specific to the United States. Afgritech objects to this interrogatory to the extent it calls for information that is protected by the attorney-client privilege and/or work product doctrine. Subject to those objections and the General Objections, Afgritech states none regarding the United States.



**INTERROGATORY NO. 9:**

State whether you have ever received any opinion relating to whether there is a likelihood of confusion between the AMINOGREEN Mark and any other mark, and, if so, with respect to each such opinion, identify the person rendering such opinion and each document in which such opinion is expressed, and state a summary of each such opinion.

**ANSWER:** Afgritech objects to the extent this Interrogatory seeks information that is protected by the attorney-client privilege and/or the work product doctrine, including, but not limited to, the summary of any legal opinion. Afgritech objects on the basis that the interrogatory is unduly burdensome, overly broad, and not reasonably calculated to lead to the discovery of admissible evidence to the extent the Interrogatory seeks information that is not specific to the United States. Subject to those objections and the General Objections, Afgritech states that Thomas H. Van Hoozer (counsel of record in this proceeding) rendered an opinion in written correspondence dated May 12, 2011 and subsequent to the filing of the parent opposition.

**INTERROGATORY NO. 10:**

State whether you have ever received any opinion relating to whether there is a likelihood of confusion between the AMINOMAX Mark and any other mark, and, if so, with respect to each such opinion, identify the person rendering such opinion and each document in which such opinion is expressed, and state a summary of each such opinion.

**ANSWER:** Afgritech objects on the basis that the interrogatory is unduly burdensome, overly broad, and not reasonably calculated to lead to the discovery of admissible evidence to the extent the Interrogatory seeks information that is not specific to the United States. Afgritech objects to the extent this Interrogatory seeks information that is protected by the attorney-client privilege and/or the work product doctrine, including, but not limited to, the summary of any legal opinion. Subject to those objections and the General Objections, Afgritech states that Thomas H. Van Hoozer (counsel of record in this proceeding) rendered an opinion in written correspondence dated May 12, 2011 and subsequent to the filing of the parent opposition.

**INTERROGATORY NO. 11:**

Describe the circumstances whereby Afgritech first learned of the AMINORED Mark, including but not limited to the date thereof.

**ANSWER:** Afgritech objects on the basis that the interrogatory is unduly burdensome, overly broad, and not reasonably calculated to lead to the discovery of admissible evidence to the extent the Interrogatory seeks information that is not specific to the United States. Subject to that and the General Objections, Afgritech states that it learned of the AMINORED Mark upon receipt of the Notice of Opposition in this proceeding.

**INTERROGATORY NO. 12:**

Identify each good or service - including any goods and/or services not identified in Afgritech's Application Serial Number 85/096,047 - that Afgritech has offered for sale or intends to offer for sale under the AMINOGREEN Mark.

**ANSWER:** Afgritech objects on the basis that the request seeks information not reasonably calculated to lead to the discovery of admissible evidence and is outside the scope of the opposition. Afgritech objects on the basis that the interrogatory is unduly burdensome, overly broad, and not reasonably calculated to lead to the discovery of admissible evidence to the extent the Interrogatory seeks information that is not specific to the United States. Subject to those objections and the General Objections, Afgritech states that it intends to sell animal feed supplements and/or livestock feed under the AMINOGREEN Mark in the United States.

**INTERROGATORY NO. 13:**

For each good or service identified in your Response to Interrogatory No. 12, identify each state where the good or service is offered for sale or intended to be offered for sale under the AMINOGREEN Mark.

**ANSWER:** Afgritech objects on the basis that the interrogatory is unduly burdensome, overly broad, not relevant or material, and not reasonably calculated to lead to the discovery of admissible evidence to the extent the Interrogatory seeks information that is not specific to the states of the United States. Subject to that and the General Objections, Afgritech states that it intends to make the goods under the AMINOGREEN Mark available for purchase throughout the United States.

**INTERROGATORY NO. 14:**

For each good or service identified in your Response to Interrogatory No. 12, identify the date on which the good or service was first offered for sale under the AMINOGREEN Mark.

**ANSWER:** Afgritech objects on the basis that the interrogatory is unduly burdensome, overly broad, and not reasonably calculated to lead to the discovery of admissible evidence to the extent the Interrogatory seeks information that is not specific to the United States. Subject to that and the General Objections, Afgritech states none in the United States.

**INTERROGATORY NO. 15:**

For each good or service identified in your Response to Interrogatory No. 12, state, by calendar quarter, the dollar volume budgeted and expended by Afgritech to promote the AMINOGREEN Mark in connection therewith.

**ANSWER:** Afgritech objects on the basis that the interrogatory is unduly burdensome, overly broad, and not reasonably calculated to lead to the discovery of admissible evidence to the extent the Interrogatory seeks information that is not specific to the states of the United States. Subject to that and the General Objections, Afgritech states none in the United States.

**INTERROGATORY NO. 16:**

For each good or service identified in your Response to Interrogatory No. 12, state, by calendar quarter, the approximate income anticipated or received to date from Afgritech's sales of those goods or services under the AMINOGREEN Mark.

**ANSWER:** Afgritech objects on the basis that the interrogatory is unduly burdensome, overly broad, and not reasonably calculated to lead to the discovery of admissible evidence to the extent the Interrogatory seeks information that is not specific to the states of the United States.

**REDACTED**

**INTERROGATORY NO. 17:**

Identify each good or service - including any goods and/or services not identified in Afgritech's Registration Number 3,905,808 - that Afgritech has offered for sale or intends to offer for sale under the AMINOMAX Mark.

**ANSWER:** Afgritech objects on the basis that the request seeks information not reasonably calculated to lead to the discovery of admissible evidence and is outside the scope of the opposition. Afgritech objects on the basis that the interrogatory is unduly burdensome, overly broad, and not reasonably calculated to lead to the discovery of admissible evidence to the extent the Interrogatory seeks information that is not specific to the United States. Subject to that and the General Objections, Afgritech states that it sells a product useful both as animal feed supplements and livestock feed under the AMINOMAX Mark as AMINOMAX S, AMINOMAX Pro, and AMINOMAX C in the United States.

**INTERROGATORY NO. 18:**

For each good or service identified in your Response to Interrogatory No. 17, identify each state where the good or service is offered for sale or intended to be offered for sale under the AMINOMAX Mark.

**ANSWER:** Afgritech objects on the basis that the interrogatory is unduly burdensome, overly broad, not material or relevant, and not reasonably calculated to lead to the discovery of admissible evidence to the extent the Interrogatory seeks information that is not specific to the United States. Subject to that and the General Objections, Afgritech states that it has sold its AMINOMAX products in New York, New Hampshire, Connecticut, Massachusetts, Maine, Vermont, and Pennsylvania, but the AMINOMAX product is available for purchase in all of the 50 States.

**INTERROGATORY NO. 19:**

For each good or service identified in your Response to Interrogatory No. 17, identify the date on which the good or service was first offered for sale under the AMINOMAX Mark.

**ANSWER:** Afgritech objects on the basis that the interrogatory is unduly burdensome, overly broad, and not reasonably calculated to lead to the discovery of admissible evidence to the extent the Interrogatory seeks information that is not specific to the United States. Subject to that and the General Objections, Afgritech states that its product was first shipped bearing the AMINOMAX Mark in the United States at least as early as November 11, 2010.

**INTERROGATORY NO. 20:**

For each good or service identified in your Response to Interrogatory No. 17, state, by calendar quarter, the dollar volume budgeted and expended by Afgriotech to promote the AMINOMAX Mark in connection therewith.

**ANSWER:** Afgriotech objects on the basis that the interrogatory is unduly burdensome, overly broad, not relevant or material, and not reasonably calculated to lead to the discovery of admissible evidence to the extent the Interrogatory seeks information that is not specific to the United States. Afgriotech also objects on the basis that the request is unduly burdensome to the extent that it is required to provide information on a quarterly basis.

***CONFIDENTIAL BUSINESS INFORMATION/TRADE SECRET –***

**REDACTED**

**INTERROGATORY NO. 21:**

For each good or service identified in your Response to Interrogatory No. 17, state, by calendar quarter, the approximate income anticipated or received to date from Afgritech's sales of those goods or services under the AMINOMAX Mark.

**ANSWER:** Afgritech objects on the basis that the interrogatory is unduly burdensome, overly broad, and not reasonably calculated to lead to the discovery of admissible evidence to the extent the Interrogatory seeks information that is not specific to the United States. Afgritech objects on the basis that the interrogatory is vague and ambiguous to the extent that it seeks information about the "income" of Afgritech, which is not defined.

***CONFIDENTIAL BUSINESS INFORMATION/TRADE SECRET –***

**REDACTED**

**INTERROGATORY NO. 22:**

Identify representative examples of each different promotional document or item used or being considered for use by Afgritech in connection with the promotion and sale of Afgritech's goods and services under the AMINOGREEN Mark.

**ANSWER:** Afgritech objects on the basis that the interrogatory is unduly burdensome, overly broad, and not reasonably calculated to lead to the discovery of admissible evidence to the extent the Interrogatory seeks information that is not specific to the United States. Subject to that and the General Objections, Afgritech states there are none.

**INTERROGATORY NO. 23:**

Identify representative examples of each different promotional document or item used or being considered for use by Afgritech in connection with the promotion and sale of Afgritech's goods and services under the AMINOMAX Mark.

**ANSWER:** Afgritech objects on the basis that the interrogatory is unduly burdensome, overly broad, and not reasonably calculated to lead to the discovery of admissible evidence to the extent the Interrogatory seeks information that is not specific to the United States. Subject to that and the General Objections, Afgritech has produced responsive documents pursuant to Fed. R. Civ. P. 33(d) from which the information requested can be derived.

**INTERROGATORY NO. 24:**

Identify (by title, publisher, issue date, page number, media outlet, Internet URL, and any other relevant designation), those printed and electronic publications (including websites and broadcast media commercials) in which Afgritech has promoted or plans to promote its goods or services under the AMINOGREEN Mark.

**ANSWER:** Afgritech objects on the basis that the interrogatory is unduly burdensome, overly broad, and not reasonably calculated to lead to the discovery of admissible evidence to the extent the Interrogatory seeks information that is not specific to the United States. Subject to that and the General Objections, Afgritech states that has plans to promote its goods under the AMINOGREEN Mark at its website found at [www.aminomax.com](http://www.aminomax.com). Various printed and electronic publications in the field of livestock management and animal husbandry, including, but not limited to, *Country Folks*, *Dairy Herd Management*, *Feedstuffs*, *Hoards Dairyman*, *Progressive Dairyman*, Afgritech further states that it has not yet promoted its goods under the AMINOGREEN Mark.

**INTERROGATORY NO. 25:**

Identify (by title, publisher, issue date, page number, media outlet, Internet URL, and any other relevant designation), those printed and electronic publications (including websites and



broadcast media commercials) in which Afgritech has promoted or plans to promote its goods or services under the AMINOMAX Mark.

**ANSWER:** Afgritech objects on the basis that the interrogatory is unduly burdensome, overly broad, not relevant or material, and not reasonably calculated to lead to the discovery of admissible evidence to the extent the Interrogatory seeks information that is not specific to the United States. Additionally, Afgritech objects on the basis that this interrogatory is unduly burdensome and overly broad to the extent it seeks information about every instance in which Afgritech has promoted its AMINOMAX Mark since it was first adopted. Subject to that and the General Objections, Afgritech states that it has promoted its goods under the AMINOMAX Mark every day since its adoption of the mark at its website found at [www.aminomax.com](http://www.aminomax.com). Additionally, Afgritech has produced responsive documents pursuant to Fed. R. Civ. P. 33(d) from which the information requested can be derived.

---

**INTERROGATORY NO. 26:**

Identify (by name, date and location) all marketing venues (such as trade shows or fairs) where Afgritech has promoted or plans to promote its goods or services under the AMINOGREEN Mark.

**ANSWER:** Afgritech objects on the basis that the interrogatory is unduly burdensome, overly broad, and not reasonably calculated to lead to the discovery of admissible evidence to the extent the Interrogatory seeks information that is not specific to the United States.

***CONFIDENTIAL BUSINESS INFORMATION/TRADE SECRET -***

**REDACTED**

**INTERROGATORY NO. 27:**

Identify (by name, date and location) all marketing venues (such as trade shows or fairs) where AfgriTech has promoted or plans to promote its goods or services under the AMINOMAX Mark.

**ANSWER:** AfgriTech objects on the basis that the interrogatory is unduly burdensome, overly broad, not relevant or material, and not reasonably calculated to lead to the discovery of admissible evidence to the extent the Interrogatory seeks information that is not specific to the United States.

***CONFIDENTIAL BUSINESS INFORMATION/TRADE SECRET –***

**REDACTED**

**INTERROGATORY NO. 28:**

Identify those persons with knowledge of any market research (including surveys, studies, investigations, and focus-group inquiries) conducted by or on behalf of Afgritech relating to the AMINOGREEN Mark, and for each such person, identify the extent of such knowledge.

**ANSWER:** Afgritech objects on the basis that the interrogatory is unduly burdensome, overly broad, not relevant or material, and not reasonably calculated to lead to the discovery of admissible evidence to the extent the Interrogatory seeks information that is not specific to the United States. Subject to that and the General Objections, Afgritech states none.

**INTERROGATORY NO. 29:**

Identify those persons with knowledge of any market research (including surveys, studies, investigations, and focus-group inquiries) conducted by or on behalf of Afgritech relating to the AMINOMAX Mark, and for each such person, identify the extent of such knowledge.

**ANSWER:** Afgritech objects on the basis that the interrogatory is unduly burdensome, overly broad, not relevant or material, and not reasonably calculated to lead to the discovery of admissible evidence to the extent the Interrogatory seeks information that is not specific to the United States. Subject to that and the General Objections, Afgritech identifies Tom Tylutki, a technical consultant, 418 Davis Road, Cortland, NY 13045.

**INTERROGATORY NO. 30:**

Describe every communication with any person (including, but not limited to, actual or potential customers) relating to any possible mistake or confusion between the AMINOGREEN Mark and the AMINORED Mark at any time, and, with respect to each, state the date of the communication, identify the person(s) involved, and identify all persons with knowledge of the facts relating to each such instance of mistake or confusion.

**ANSWER:** Afgritech objects on the basis that the interrogatory is unduly burdensome, overly broad, not relevant or material, and not reasonably calculated to lead to the discovery of admissible evidence to the extent the Interrogatory seeks information that is not specific to the United States. Subject to that and the General Objections, and inasmuch as no use of the AMINOGREEN mark has been made in the United States, Afgritech states none.

**INTERROGATORY NO. 31:**

Describe every communication with any person (including, but not limited to, actual or potential customers) relating to any possible mistake or confusion between the AMINOMAX Mark and the AMINORED Mark at any time, and, with respect to each, state the date of the

communication, identify the person(s) involved, and identify all persons with knowledge of the facts relating to each such instance of mistake or confusion.

**ANSWER:** Afgritech objects on the basis that the interrogatory is unduly burdensome, overly broad, not relevant or material, and not reasonably calculated to lead to the discovery of admissible evidence to the extent the Interrogatory seeks information that is not specific to the United States. Subject to that and the General Objections, and inasmuch as no use of AMINORED has commenced in the United States, Afgritech states none.

**INTERROGATORY NO. 32:**

Describe the circumstances of your receipt of any document, correspondence, payment, or telephone call relating to the AMINORED Mark, including but not limited to identifying when it was received, the entity from which it was received, and the specific person who received it.

**ANSWER:** Afgritech objects on the basis that the interrogatory is unduly burdensome, overly broad, not relevant or material, and not reasonably calculated to lead to the discovery of admissible evidence to the extent the Interrogatory seeks information that is not specific to the United States. Subject to that and the General Objections, Afgritech states there are no such responsive documents, correspondence, payments, or telephone calls.

**INTERROGATORY NO. 33:**

Identify the channels of distribution and the geographical areas of trade within which Afgritech's goods and services are promoted and/or sold or are intended to be promoted and/or sold under the AMINOGREEN Mark.

**ANSWER:** Afgritech objects on the basis that the interrogatory is unduly burdensome, overly broad, and not reasonably calculated to lead to the discovery of admissible evidence to the extent the Interrogatory seeks information that is not specific to the United States. Subject to that and the General Objections, Afgritech states that its intended channels of distribution in the United States are sellers of animal foodstuffs, including livestock feed and animal feed supplements throughout the United States. Afgritech's current geographical areas of trade are New York, Maine, Pennsylvania, Connecticut, Massachusetts, New Hampshire and Vermont.

**INTERROGATORY NO. 34:**

Identify the channels of distribution and the geographical areas of trade within which Afgritech's goods and services are promoted and/or sold or are intended to be promoted and/or sold under the AMINOMAX Mark.

**ANSWER:** Afgritech objects on the basis that the interrogatory is unduly burdensome, overly broad, and not reasonably calculated to lead to the discovery of admissible evidence to the extent the Interrogatory seeks information that is not specific to the United States. Subject to that and the General Objections, Afgritech states that its current channels of distribution in the

United States are sellers of animal foodstuffs, including livestock feed and animal feed supplements in New York, Maine, Pennsylvania, Connecticut, Massachusetts, New Hampshire and Vermont, and it intends to make the product available for purchase nationwide.

**INTERROGATORY NO. 35:**

Identify the types of customers with whom Afgritech does business or intends to do business under the AMINOGREEN Mark, and the types of ultimate consumers to whom Afgritech offers or intends to offer for sale Afgritech's goods or services under the AMINOGREEN Mark.

**ANSWER:** Afgritech objects on the basis that the interrogatory is vague and ambiguous in assuming that Afgritech will be doing business under the AMINOGREEN Mark. Rather, Afgritech intends to sell product bearing the AMINOGREEN Mark. Subject to that and the General Objections, Afgritech states that it intends to sell product bearing the AMINOGREEN Mark to dairy farmers, sellers of animal foodstuffs, including livestock feed and animal feed supplements, and ruminant animal feed manufacturers.

**INTERROGATORY NO. 36:**

Identify the types of customers with whom Afgritech does business or intends to do business under the AMINOMAX Mark, and the types of ultimate consumers to whom Afgritech offers or intends to offer for sale Afgritech's goods or services under the AMINOMAX Mark.

**ANSWER:** Afgritech objects on the basis that the interrogatory is vague and ambiguous in assuming that Afgritech is or will be doing business under the AMINOMAX Mark. Rather, Afgritech manufactures and sells product bearing the AMINOMAX Mark. Afgritech objects on the basis that the interrogatory is unduly burdensome, overly broad, not relevant or material, and not reasonably calculated to lead to the discovery of admissible evidence to the extent the Interrogatory seeks information that is not specific to the United States. Subject to those objections and the General Objections, Afgritech states that it sells and intends to sell product bearing the AMINOMAX Mark to dairy farmers, sellers of animal foodstuffs, including livestock feed and animal feed supplements, and ruminant animal feed manufacturers.

**INTERROGATORY NO. 37:**

Identify each person or agency that has participated in the creation or distribution of advertisements or promotions for Afgritech's goods or services under the AMINOGREEN Mark, and the period of time during which each such person or agency has participated.

**ANSWER:** Afgritech objects on the basis that the interrogatory is unduly burdensome, overly broad, not relevant or material, and not reasonably calculated to lead to the discovery of admissible evidence to the extent the Interrogatory seeks information that is not specific to the United States. Subject to that and the General Objections, Afgritech states none.

**INTERROGATORY NO. 38:**

Identify each person or agency that has participated in the creation or distribution of advertisements or promotions for Afgritech's goods or services under the AMINOMAX Mark, and the period of time during which each such person or agency has participated.

**ANSWER:** Afgritech objects on the basis that the interrogatory is unduly burdensome, overly broad, not relevant or material, and not reasonably calculated to lead to the discovery of admissible evidence to the extent the Interrogatory seeks information that is not specific to the United States. Subject to that and the General Objections, Afgritech identifies Larry Smith, Vice President of Sales & Marketing and a Director of Animal Feed Supplement, Inc. dba New Generation Feeds, Belle Fourche, South Dakota, Les Berghorn, Regional Sales Manager of Afgritech, LLC, and Lime Valley Advertising, Inc., 1620 S. Riverfront Dr., Mankato, MN 56001.

**INTERROGATORY NO. 39:**

Identify (by parties, jurisdiction, and case number) every other case or administrative proceeding, including proceedings before the PTO, relating to a trademark or service mark to which you have been a party, and for each such proceeding, identify the trademark or service mark involved in the proceeding, and describe the disposition or present status of the proceeding.

**ANSWER:** Afgritech objects on the basis that the interrogatory is unduly burdensome, overly broad, not relevant or material, and not reasonably calculated to lead to the discovery of admissible evidence to the extent the Interrogatory seeks information that is not specific to the United States. Afgritech objects to the interrogatory as it seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence, is unduly burdensome, and overly broad. It seeks the permissible scope of discovery in this proceeding. Subject to those and the General Objections, Afgritech identifies *Afgritech Ltd. v. Purina Mills, LLC*, Cancellation No. 92047278, involving the trademark AMINO MIX. The TTAB granted Afgritech's Petition for Cancellation and the proceeding has been terminated.

**INTERROGATORY NO. 40:**

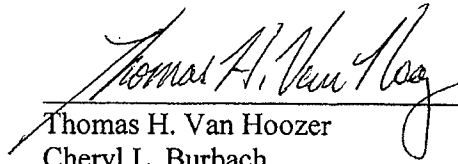
Identify each person who has supplied documents or information for, or who has participated in responding to, these Interrogatories or Evonik's First Requests for Production of Documents, served concurrently herewith, including each person's name, title, and business address.

**ANSWER:** Subject to the General Objections, Afgritech identifies Chris Holmes, Richard Wark, Larry Smith, Jeff Westberg, and Katie Sinclair, all of whom may be contacted through Afgritech's counsel of record.

Dated: December 21, 2011

Respectfully Submitted,

HOVEY WILLIAMS LLP

A handwritten signature in cursive script, reading "Thomas H. Van Hoozer", is written over a horizontal line.

Thomas H. Van Hoozer

Cheryl L. Burbach

Suite 1000, 10801 Mastin Boulevard

Overland Park, Kansas 66210

Phone: (913) 647-9050

Fax: (913) 647-9057

Email: [tvh@hoveywilliams.com](mailto:tvh@hoveywilliams.com)

[clb@hoveywilliams.com](mailto:clb@hoveywilliams.com)

---

ATTORNEYS FOR AFGRITECH AFGRITECH LTD.



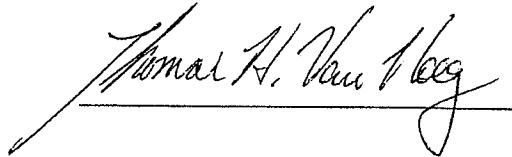
**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on this 21st day of December, 2011, the foregoing **AFGRITECH'S OBJECTIONS AND RESPONSES TO OPPOSER'S FIRST SET OF INTERROGATORIES TO AFGRITECH** has been served on counsel for Afgritech via First Class U.S. Mail to the following address:

Scott D. Woldow, Esq.  
Smith, Gambrell & Russell, LLP  
1130 Connecticut Avenue, N.W., Suite 1130  
Washington, District of Columbia 20036

---

ATTORNEY FOR OPPOSER EVONIK DEGUSSA GMBH

  
\_\_\_\_\_

VERIFICATION

COUNTY OF Cumbria, ENGLAND

I, Ron Wood being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001, and that such willful false statements and the like may jeopardize the validity of the application or document or any registration resulting therefrom, declare that all statements made of my own knowledge are true; and all statements made on information and belief are believed to be true.

Dated: 21 December 2011



Signature of Ron Wood